

Substitute for HOUSE BILL No. 2027

By Committee on Commerce, Labor and Economic Development

2-26

1 AN ACT concerning negotiation of working conditions, including labor
2 relations, for certain professional employees; amending K.S.A. 72-
3 5415, 72-5416, 72-5417, 72-5418, 72-5419, 72-5420, 72-5421, 72-
4 5423, 72-5424, 72-5426, 72-5430 and 72-8246 and K.S.A. 2012 Supp.
5 72-5413 and repealing the existing sections; also repealing K.S.A. 72-
6 5428a.

7
8 *Be it enacted by the Legislature of the State of Kansas:*

9 Section 1. K.S.A. 2012 Supp. 72-5413 is hereby amended to read as
10 follows: 72-5413. As used in this act and in acts amendatory thereof or
11 supplemental thereto:

12 (a) The term "persons" includes one or more individuals,
13 organizations, associations, corporations, boards, committees,
14 commissions, agencies, or their representatives.

15 (b) "Board of education" means the state board of education pursuant
16 to its authority under K.S.A. 76-1001a and 76-1101a, and amendments
17 thereto, the board of education of any school district, the board of control
18 of any area vocational-technical school and the board of trustees of any
19 community college.

20 (c) "Professional employee" means any person employed by a board
21 of education in a position which requires a ~~certificate~~ *license* issued by the
22 state board of education ~~or employed by a board of education in a~~
23 ~~professional, educational or instructional capacity~~, but shall not mean any
24 such person who is an administrative employee and, commencing in the
25 2006-2007 school year, shall not mean any person who is a retirant from
26 school employment of the Kansas public employees retirement system,
27 regardless of whether an agreement between a board of education and an
28 exclusive representative of professional employees that covers
29 *mandatorily negotiable* terms and conditions of professional service
30 provides to the contrary.

31 (d) "Administrative employee" means, in the case of a school district,
32 any person who is employed by a board of education in an administrative
33 capacity and who is fulfilling duties for which an administrator's certificate
34 is required under K.S.A. 72-7513, and amendments thereto; and, in the
35 case of an area vocational-technical school or community college, any
36 person who is employed by the board of control or the board of trustees in

1 an administrative capacity and who is acting in that capacity and who has
2 authority, in the interest of the board of control or the board of trustees, to
3 hire, transfer, suspend, layoff, recall, promote, discharge, assign, reward or
4 discipline other employees, or responsibly to direct them or to adjust their
5 grievances, or effectively to recommend a preponderance of such actions,
6 if in connection with the foregoing, the exercise of such authority is not of
7 a merely routine or clerical nature, but requires the use of independent
8 judgment.

9 (e) "Professional employees' organizations" means any one or more
10 organizations, agencies, committees, councils or groups of any kind in
11 which professional employees participate, and which exist for the purpose,
12 in whole or part, of engaging in professional negotiation with boards of
13 education with respect to the *mandatorily negotiable* terms and conditions
14 of professional service.

15 (f) "Representative" means any professional employees' organization
16 or any person it authorizes or designates to act in its behalf or any person a
17 board of education authorizes or designates to act in its behalf.

18 (g) "Professional negotiation" means meeting, conferring, consulting
19 and discussing in a good faith effort by both parties to reach agreement
20 with respect to the *mandatorily negotiable* terms and conditions of
21 professional service.

22 (h) "Mediation" means the effort through interpretation and advice by
23 an impartial third party to assist in reconciling a dispute concerning
24 *mandatorily negotiable* terms and conditions of professional service which
25 arose in the course of professional negotiation between a board of
26 education or its representatives and representatives of the recognized
27 professional employees' organization.

28 (i) "Fact-finding" means the investigation by an individual or board
29 of a dispute concerning *mandatorily negotiable* terms and conditions of
30 professional service which arose in the course of professional negotiation,
31 and the submission of a report by such individual or board to the parties to
32 such dispute which includes a determination of the issues involved,
33 findings of fact regarding such issues, and the recommendation of the fact-
34 finding individual or board for resolution of the dispute.

35 (j) "Strike" means an action taken for the purpose of coercing a
36 change in the *mandatorily negotiable* terms and conditions of professional
37 service or the rights, privileges or obligations thereof, through any failure
38 by concerted action with others to report for duty including, but not limited to,
39 to, any work stoppage, slowdown, or refusal to work.

40 (k) "Lockout" means action taken by a board of education to provoke
41 interruptions of or prevent the continuity of work normally and usually
42 performed by the professional employees for the purpose of coercing
43 professional employees into relinquishing rights guaranteed by this act and

1 the act of which this section is amendatory.

2 (1) (1) ~~"Terms and conditions of professional service" means (A)~~
3 ~~Salaries and wages, including pay for duties under supplemental contracts;~~
4 ~~hours and amounts of work; vacation allowance, holiday, sick, extended,~~
5 ~~sabbatical, and other leave, and number of holidays; retirement; insurance~~
6 ~~benefits; wearing apparel; pay for overtime; jury duty; grievance~~
7 ~~procedure; including binding arbitration of grievances; disciplinary~~
8 ~~procedure; resignations; termination and nonrenewal of contracts;~~
9 ~~reemployment of professional employees; terms and form of the individual~~
10 ~~professional employee contract; probationary period; professional~~
11 ~~employee appraisal procedures; each of the foregoing being a term and~~
12 ~~condition of professional service, regardless of its impact on the employee~~
13 ~~or on the operation of the educational system; (B) matters which relate to~~
14 ~~privileges to be granted the recognized professional employees'~~
15 ~~organization including, but not limited to, voluntary payroll deductions;~~
16 ~~use of school or college facilities for meetings; dissemination of~~
17 ~~information regarding the professional negotiation process and related~~
18 ~~matters to members of the bargaining unit on school or college premises~~
19 ~~through direct contact with members of the bargaining unit, the use of~~
20 ~~bulletin boards on or about the facility, and the use of the school or college~~
21 ~~mail system to the extent permitted by law; reasonable leaves of absence~~
22 ~~for members of the bargaining unit for organizational purposes such as~~
23 ~~engaging in professional negotiation and partaking of instructional~~
24 ~~programs properly related to the representation of the bargaining unit; any~~
25 ~~of the foregoing privileges which are granted the recognized professional~~
26 ~~employees' organization through the professional negotiation process shall~~
27 ~~not be granted to any other professional employees' organization; and (C)~~
28 ~~such other matters as the parties mutually agree upon as properly related to~~
29 ~~professional service including, but not limited to, employment incentive or~~
30 ~~retention bonuses authorized under K.S.A. 72-8246, and amendments~~
31 ~~thereto.~~

32 (2) *Subject to the provisions of K.S.A. 72-5423(a), and amendments*
33 *thereto, "mandatorily negotiable terms and conditions of professional*
34 *service" shall be exclusively limited to:*

35 (A) *Salaries and wages, including pay for duties under supplemental*
36 *contracts;*

37 (B) *hours and amounts of work outside of teaching periods, but*
38 *within a standard eight-hour work day as established by the board of*
39 *education;*

40 (C) *sick leave;*

41 (D) *personal leave; and*

42 (E) *designation of holidays.*

43 (2) *"Permissibly negotiable terms and conditions of professional*

1 *service" shall include those topics which are not specifically identified in*
2 *paragraph (1), but which topics:*

3 *(A) Are related to the performance of job duties of licensed personnel*
4 *employed by school districts; and*

5 *(B) may be discussed through the professional negotiation process.*

6 *No permissibly negotiable term and condition of professional service*
7 *shall be required to be negotiated whenever such permissibly negotiable*
8 *term and condition of professional service has been declined by either the*
9 *board of education or the professional employees' organization or the*
10 *individual employee.*

11 *(3) Nothing in this act, and amendments thereto, shall authorize the*
12 *diminution of any right, duty or obligation of either the professional*
13 *employee or the board of education which have been fixed by statute or by*
14 *the constitution of this state. ~~Except as otherwise expressly provided in~~*
15 *this subsection (1), the fact that any matter may be the subject of a statute*
16 *or the constitution of this state does not preclude negotiation thereon so*
17 *long as the negotiation proposal would not prevent the fulfillment of the*
18 *statutory or constitutional objective.*

19 ~~*(3)*~~ *(4) Matters which relate to the duration of the school term, and*
20 *specifically to consideration and determination by a board of education of*
21 *the question of the development and adoption of a policy to provide for a*
22 *school term consisting of school hours, ~~are not included within the~~*
23 *meaning of terms and conditions of professional service and are not or*
24 *determination of the length of teaching periods, the number of teaching*
25 *periods and professional appraisal criteria and procedures, shall not be*
26 *construed to be within the meaning of either of the terms "mandatorily*
27 *negotiable terms and conditions of professional service" or "permissibly*
28 *negotiable terms and conditions of employment" and shall not be subject*
29 *to professional negotiation.*

30 *(5) All negotiated agreements between boards of education and*
31 *teachers' associations in existence as of the effective date of this act shall*
32 *be void and unenforceable in all aspects relating to terms and conditions*
33 *of employment, except for those categories identified as mandatorily*
34 *negotiable terms and conditions of professional service negotiable in*
35 *paragraph (1).*

36 *(m) "Secretary" means the secretary of labor or a designee thereof.*

37 *(n) "Statutory declaration of impasse date" means June 1 in the*
38 *current school year.*

39 *(o) "Supplemental contracts" means contracts for employment duties*
40 *other than those services covered in the principal or primary contract of*
41 *employment of the professional employee and shall include, but not be*
42 *limited to, such services as coaching, supervising, directing and assisting*
43 *extracurricular activities, chaperoning, ticket-taking, lunchroom*

1 supervision, and other similar and related activities.

2 Sec. 2. K.S.A. 72-5415 is hereby amended to read as follows: 72-
3 5415. (a) When a representative is designated or selected for the purposes
4 of professional negotiation by the majority of the professional employees
5 in an appropriate negotiating unit, such representative ~~shall be the~~
6 ~~exclusive representative of all~~ *may represent any of* the professional
7 employees in the unit for such purpose *at the discretion of each*
8 *professional employee in the unit.*

9 (b) Nothing in this act or in acts amendatory thereof or supplemental
10 thereto shall be construed to prevent professional employees, individually
11 or collectively, from ~~presenting or making known their positions or~~
12 ~~proposals or both to a board of education, a superintendent of schools or~~
13 ~~other chief executive officer employed by a board of education~~ *entering*
14 *into an agreement covering terms and conditions of professional service.*

15 Sec. 3. K.S.A. 72-5416 is hereby amended to read as follows: 72-
16 5416. (a) If professional employees of a board of education are not
17 represented by a professional employees' organization for the purpose of
18 professional negotiation, any professional employees' organization may
19 file a request with the board of education alleging that a majority of the
20 professional employees in an appropriate negotiating unit wish to be
21 represented for such purpose by such organization and asking the board of
22 education to recognize it as ~~the exclusive representative~~ *a representative of*
23 *the unit* under K.S.A. 72-5415, *and amendments thereto.* Such request
24 shall describe the grouping of jobs or positions which constitute the unit
25 claimed to be appropriate and shall include a demonstration of majority
26 support through verified membership lists. Notice of such request shall
27 immediately be posted by the board of education on a bulletin board at
28 each school or other facility in which members of the unit claimed to be
29 appropriate are employed.

30 (b) A request for recognition under subsection (a) shall be granted by
31 the board of education unless:

32 (1) The board of education has a good faith doubt as to the accuracy
33 or validity of the evidence demonstrating majority support; or

34 (2) another professional employees' organization files with the board
35 of education within ~~ten (10)~~ 10 calendar days after the posting of notice of
36 the original request a competing request alleging majority support and
37 asking the board of education to recognize it as ~~the exclusive~~
38 ~~representative~~ *a representative of the unit*; or

39 (3) one or more of the professional employees included in the unit
40 claimed to be appropriate files with the board of education within ~~ten (10)~~
41 10 calendar days after the posting of notice of the original request a
42 competing request alleging majority support and asking the board of
43 education to deny the request for recognition; or

1 (4) the board of education, within the previous ~~twelve (12)~~ 12
2 months, has lawfully denied or withdrawn the recognition of a professional
3 employees' organization as ~~the exclusive~~ a representative of the
4 professional employees included in the unit claimed to be appropriate; or

5 (5) the secretary, within the previous ~~twelve (12)~~ 12 months, has
6 conducted a secret ballot election under the provisions of this act, or the
7 act of which this section is amendatory, and the election resulted in a
8 majority vote for no representation.

9 (c) (1) *No provision of this section shall prohibit a professional*
10 *employee from representing such professional employee in negotiations*
11 *with a board of education.*

12 (2) *No provision of any agreement between a professional employees'*
13 *organization and a board of education shall require or otherwise impose*
14 *upon a professional employee representation by such professional*
15 *employees' organization unless such professional employee:*

16 (A) *Is a member of such professional employees' organization; and*

17 (B) *such professional employee does not exercise the provisions of*
18 *paragraph (1).*

19 Sec. 4. K.S.A. 72-5417 is hereby amended to read as follows: 72-
20 5417. (a) *At the time of initial recognition of a bargaining unit for licensed*
21 *staff, or re-certification as provided herein, a petition may be filed with the*
22 *secretary, asking the secretary to investigate and decide the question of*
23 *whether: (1) Professional employees in an appropriate negotiating unit*
24 *have designated a professional employees' organization for recognition as*
25 *an ~~exclusive~~ a representative for purposes of K.S.A. 72-5415, and*
26 *amendments thereto; (2) a professional employees' organization which is*
27 *the a recognized ~~exclusive~~ representative should be replaced by another*
28 *professional employees' organization; or (3) recognition of a professional*
29 *employees' organization as ~~the exclusive~~ a representative should be*
30 *withdrawn.*

31 (b) A petition under subsection (a) may be filed by:

32 (1) A board of education alleging that it has received a request for
33 ~~exclusive~~ recognition from a professional employees' organization and has
34 a good faith doubt as to the accuracy or validity of the ~~claims made in the~~
35 ~~request~~ *claim of majority representation of the proposed or current*
36 *employee group; or*

37 (2) a professional employees' organization; or

38 (3) one or more professional employees seeking withdrawal of
39 recognition of a professional employees' organization as ~~the exclusive~~ a
40 *representative of the unit. Professional employees of a board of education*
41 *may file a request with the board of education alleging that a majority of*
42 *the professional employees in that educational entity wish to be*
43 *represented by an identified group for the purpose of professional*

1 negotiations, and asking the board of education to recognize such group in
2 that educational entity pursuant to K.S.A. 72-5415, and amendments
3 thereto. Such request shall describe the jobs or positions within the
4 educational entity that are proposed to be part of the negotiations unit,
5 and shall include substantiation of majority support through verified
6 membership lists. Notice of such request shall immediately be posted by
7 the board of education on the district website for access by all members of
8 the proposed unit.

9 (d) A request for recognition under subsection (c) shall be granted by
10 the board of education unless:

11 (1) The board of education has a good faith doubt as to the accuracy
12 or validity of the evidence demonstrating majority support;

13 (2) another group of professional employees files with the board of
14 education within 10 calendar days after the posting of notice of the
15 original request a competing request alleging majority support and asking
16 the board of education to recognize it as the exclusive representative of the
17 professional employees of the entity;

18 (3) one or more of the professional employees included in the unit
19 claimed to be appropriate files with the board of education within 10
20 calendar days after the posting of notice of the original request a
21 competing request alleging majority support and asking the board of
22 education to deny the request for recognition; or

23 (4) the board of education, within the previous 12 months, has
24 lawfully denied or withdrawn the recognition of a professional employees'
25 organization as the exclusive representative of the professional employees
26 included in the unit claimed to be appropriate.

27 (e) In even-numbered years, each board of education shall take
28 action at the July organizational meeting required by K.S.A. 72-8205, and
29 amendments thereto, to direct the designated professional employees'
30 organization for negotiations to provide, no later than the September
31 board of education meeting, re-validation that a majority of the
32 professional employees desire continuation of the designated negotiations
33 group.

34 (f) If the biennial re-validation of the representative organization is
35 not accepted by a board of education, or if an individual or competing
36 group of professional employees challenges the certification of majority
37 support of such existing group, the board of education shall immediately
38 publish on the district website the opportunity for other groups to submit
39 requests for recognition as the representative association for professional
40 negotiations. The board of education shall schedule a meeting date and
41 time for determination by the board of education of the representative
42 organization not sooner than 10 days nor more than 30 days from the date
43 of posting such notice. The board of education shall conduct the selection

1 *process to determine the organization representing a majority of the*
2 *licensed staff.*

3 Sec. 5. K.S.A. 72-5418 is hereby amended to read as follows: 72-
4 5418. (a) Upon receipt of a petition under K.S.A. 72-5417, *and*
5 *amendments thereto*, and except as provided in subsection (b), the
6 secretary or a person or persons designated by the secretary may direct and
7 conduct a secret ballot election in order to decide the questions raised by
8 the petition.

9 (b) The secretary shall dismiss, without determining the questions
10 raised therein, any petition filed under K.S.A. 72-5417, *and amendments*
11 *thereto*, if:

12 (1) The petition is filed by a professional employees' organization and
13 is not supported by credible evidence that at least ~~thirty percent (30%)~~
14 30% of the professional employees in the appropriate unit are members of
15 the professional employees' organization filing the petition; or

16 (2) the petition is filed by one or more professional employees, asks
17 the secretary to determine the question of whether recognition of a
18 professional employees' organization should be withdrawn, and is not
19 supported by credible evidence that at least ~~thirty percent (30%)~~ 30% of
20 the professional employees in the appropriate unit support the request; or

21 ~~(3) the board of education, within the previous twelve (12) months,~~
22 ~~has lawfully recognized a professional employees' organization other than~~
23 ~~the petitioner as the exclusive representative of any professional~~
24 ~~employees included in the unit described in the petition; or~~

25 ~~(4) the board of education, within the previous twelve (12) months,~~
26 ~~has lawfully denied or withdrawn the recognition of a professional~~
27 ~~employees' organization as the exclusive representative of the professional~~
28 ~~employees included in the unit described in the petition; or~~

29 (5) the secretary, within the previous ~~twelve (12)~~ 12 months, has
30 conducted and certified the result of a secret ballot election under the
31 provisions of this act, or the act of which this section is amendatory.

32 Sec. 6. K.S.A. 72-5419 is hereby amended to read as follows: 72-
33 5419. If the secretary does not dismiss a petition filed under K.S.A. 72-
34 5417, *and amendments thereto*, and determines that it is necessary to direct
35 and conduct a secret ballot election in order to resolve the questions raised
36 by the petition, the secretary shall order the election held and shall
37 determine the eligibility of professional employees to vote at the election.
38 The secretary shall base his or her determination of the questions raised by
39 the petition upon the result favored by the majority of the professional
40 employees who vote at the election if at least a majority of the eligible
41 professional employees vote. If less than a majority of the eligible
42 professional employees vote at any election conducted under this section,
43 the status of the professional employees with regard to representation prior

1 to the election is maintained. The name of a professional employees'
2 organization shall not appear on the ballot unless: (a) The professional
3 employees' organization has submitted to the secretary satisfactory
4 evidence demonstrating that at least ~~thirty percent (30%)~~ 30% of the
5 professional employees in the appropriate unit are members in good
6 standing of such organization;; or (b) the professional employees'
7 organization is ~~the currently recognized~~ *exclusive as a representative of*
8 *such unit*. In addition to the name of any professional employees'
9 organization entitled to be contained thereon, the ballot in the election
10 shall contain the choice of "no representation." When an election in which
11 the ballot contains three (3) or more choices results in no choice receiving
12 a majority of the votes cast, the secretary shall conduct a run-off election
13 by secret ballot. The ballot in a run-off election shall only provide for a
14 selection between the two choices receiving the largest and second largest
15 number of votes in the original election. The secretary shall certify the
16 result of the election to the parties involved therein.

17 Sec. 7. K.S.A. 72-5420 is hereby amended to read as follows: 72-
18 5420. In each case where the question is in issue, the secretary shall
19 decide, on the basis of the community of interest between and among the
20 professional employees of the board of education, the wishes of the
21 professional employees and/or the established practices among the
22 professional employees including, among other things, the extent to which
23 such professional employees have joined a professional employees'
24 organization, whether the unit appropriate for the purposes of professional
25 negotiation shall consist of all persons employed by the board of education
26 who are engaged in teaching ~~or performing other duties of an educational~~
27 ~~nature~~, or some subdivision thereof, except that a unit including classroom
28 teachers shall not be appropriate unless it includes all such teachers
29 employed by the board of education.

30 Sec. 8. K.S.A. 72-5421 is hereby amended to read as follows: 72-
31 5421. (a) A board of education and ~~an~~ *exclusive* a representative selected
32 or designated under the provisions of this act, or the act of which this
33 section is amendatory, may enter into an agreement covering terms and
34 conditions of professional service. The agreement becomes binding when
35 ratified by a majority of the members of the board of education and a
36 majority of the professional employees in the applicable negotiating unit
37 who vote on the question of ratification of the agreement at an election
38 conducted by the ~~exclusive~~ representative if at least a majority of the
39 professional employees in the negotiating unit vote. If less than a majority
40 of the professional employees vote on the question of ratification, the
41 election is void.

42 (b) Every professional employee in the applicable negotiating unit
43 who is to be absent from the place and at the time of the election may vote

1 an absentee ballot on the question of ratification of the agreement. Upon
2 written application by a professional employee for an absentee ballot, the
3 ~~exclusive~~ representative shall transmit to the professional employee, in
4 person or by mail to the address provided by the professional employee in
5 the application, a ballot, an unmarked envelope, a larger envelope
6 containing a space for the professional employee's signature and addressed
7 to the ~~exclusive~~ representative, and instructions to the professional
8 employee for casting the ballot. On receipt of an application under this
9 subsection, the ~~exclusive~~ representative shall prepare and maintain a list of
10 the names of professional employees who have applied for absentee
11 ballots. The returned envelopes shall be checked against the list of names
12 of applicants and the unmarked envelopes containing the ballots shall be
13 extracted. The unmarked ballot envelopes shall be opened and the absentee
14 ballots shall be counted in the same manner as ballots cast at the election.

15 Sec. 9. K.S.A. 72-5423 is hereby amended to read as follows: 72-
16 5423. (a) Nothing in this act, or the act of which this section is
17 amendatory, shall be construed to change or affect any right or duty
18 conferred or imposed by law upon any board of education, except that
19 boards of education are required to comply with this act, and the act of
20 which this section is amendatory, in recognizing professional employees'
21 organizations, and when such an organization is recognized, the board of
22 education and the professional employees' organization ~~shall~~ may enter
23 into professional negotiations on request of either party at any time during
24 the school year prior to issuance or renewal of the annual teachers'
25 contracts. Notices to negotiate on new items or to amend an existing
26 contract must be filed on or before February 1 in any school year by either
27 party, such notices shall be in writing and delivered to the chief
28 administrative officer of the board of education or to the representative of
29 the bargaining unit and shall contain in reasonable and understandable
30 detail the purpose of the new or amended items desired.

31 (b) Except as otherwise expressly provided in this subsection, every
32 meeting, conference, consultation and discussion between a professional
33 employees' organization or its representatives and a board of education or
34 its representatives during the course of professional negotiation and every
35 hearing conducted by the secretary under K.S.A. 72-5426, and
36 amendments thereto, for determination of the question of the existence of
37 impasse is subject to the provisions of the Kansas open meetings law, and
38 any amendments or supplements thereto. Meetings, conferences,
39 consultations and discussions held by the secretary under K.S.A. 72-5426,
40 and amendments thereto, for investigation of the question of the existence
41 of impasse, and meetings, conferences, consultations and discussions held
42 during the course of and in connection with, and the meeting required at
43 the conclusion of, impasse resolution proceedings, as provided for in

1 K.S.A. 72-5427 and 72-5428, and amendments to such sections, are
2 specifically made exempt from the provisions of the Kansas open meetings
3 law, and any amendments or supplements thereto.

4 (c) *A board of education and any professional employee may enter*
5 *into an agreement covering terms and conditions of professional service.*
6 *The agreement shall become binding when ratified by a majority of the*
7 *members of the board of education and by the professional employee.*

8 (d) Nothing in this act, or the act of which this section is amendatory,
9 shall be construed to authorize a strike by professional employees.

10 ~~(d)~~ (e) Any agreement lawfully made under the provisions of this act,
11 or the act of which this section is amendatory, may be adopted by
12 reference and made a part of the employment contract between any
13 professional employee of the applicable negotiating unit and a board of
14 education for a period of not to exceed three years.

15 Sec. 10. K.S.A. 72-5424 is hereby amended to read as follows: 72-
16 5424. ~~(a) A board of education and a professional employees' organization~~
17 ~~who enter into an~~ Any agreement covering terms and conditions of
18 professional service ~~may include in such agreement procedures for final~~
19 ~~and binding arbitration of such disputes as may arise involving the~~
20 ~~interpretation, application or violation of such agreement shall not include~~
21 *in such agreement any language which provides for binding arbitration of*
22 *any dispute between the board of education and any association of*
23 *employees.*

24 (b) Where a party to such agreement is aggrieved by the failure,
25 neglect or refusal of the other party to proceed to arbitration in the manner
26 provided for in such agreement, such aggrieved party may file a complaint
27 in court for a summary action without jury seeking an order directing that
28 the arbitration proceed in the manner provided for in such agreement.

29 Sec. 11. K.S.A. 72-5426 is hereby amended to read as follows: 72-
30 5426. (a) If in the course of professional negotiation either the board of
31 education or ~~the~~ a recognized professional employees' organization, or
32 both, believe that an impasse exists therein, either party individually or
33 both parties together may file a petition with the secretary, asking the
34 secretary to investigate and determine the question of whether an impasse
35 exists in professional negotiation and, if a finding that an impasse exists is
36 made, to begin impasse resolution procedures as provided in K.S.A. 72-
37 5427 and 72-5428, and amendments thereto. Within the five days
38 immediately following the date of filing, excluding Saturdays, Sundays
39 and legal holidays, the secretary shall begin investigation of the question
40 raised by the petition and in order to determine the question may meet with
41 the parties or their representatives or both, either jointly or separately, and
42 may hold such conferences, consultations and discussions therewith as the
43 secretary deems necessary. If the secretary decides on the basis of the

1 investigation that a hearing is necessary to determine the question, the
2 secretary shall conduct the hearing immediately in accordance with the
3 provisions of the Kansas administrative procedure act.

4 (b) If the secretary finds that no impasse exists in professional
5 negotiation between the parties, the secretary shall order the parties to
6 continue professional negotiation.

7 (c) If the secretary finds that an impasse exists in professional
8 negotiation between the parties, the secretary shall begin impasse
9 resolution procedures in accordance with K.S.A. 72-5427 and 72-5428,
10 and amendments thereto.

11 (d) Notwithstanding the foregoing provisions of this section, an
12 impasse is deemed to exist if the board of education and ~~the a~~ recognized
13 professional employees' organization have not reached agreement with
14 respect to the terms and conditions of professional service by the statutory
15 declaration of impasse date and, on such date, the parties shall jointly file a
16 notice of the existence of impasse with the secretary. Upon receipt of such
17 joint notice, the secretary shall begin impasse resolution procedures in
18 accordance with K.S.A. 72-5427 and 72-5428, and amendments thereto.

19 (e) Nothing in this act, or in the act of which this section is
20 amendatory, shall be construed or applied in any manner so as to prevent
21 the parties from voluntarily engaging in professional negotiation during
22 the course, or at the conclusion, of impasse resolution proceedings.

23 Sec. 12. K.S.A. 72-5430 is hereby amended to read as follows: 72-
24 5430. (a) The commission of any prohibited practice, as defined in this
25 section, among other actions, shall constitute evidence of bad faith in
26 professional negotiation.

27 (b) It shall be a prohibited practice for a board of education or its
28 designated representative willfully to:

29 (1) Interfere with, restrain or coerce professional employees in the
30 exercise of rights granted in K.S.A. 72-5414, *and amendments thereto*;

31 (2) dominate, interfere or assist in the formation, existence, or
32 administration of any professional employees' organization;

33 (3) discriminate in regard to hiring or any term or condition of
34 employment to encourage or discourage membership in any professional
35 employees' organization;

36 (4) discharge or discriminate against any professional employee
37 because such professional employee has filed any affidavit, petition or
38 complaint or given any information or testimony under this act, or because
39 such professional employee has formed, joined or chosen to be represented
40 by any professional employees' organization;

41 (5) refuse to negotiate in good faith with representatives of
42 recognized professional employees' organizations—~~as~~—~~required~~ in
43 accordance with the provisions of K.S.A. 72-5423, and amendments

1 thereto;

2 (6) deny the rights accompanying recognition of a professional
3 employees' organization which are granted in K.S.A. 72-5415, *and*
4 *amendments thereto*;

5 (7) refuse to participate in good faith in the mediation as provided in
6 K.S.A. 72-5427, *and amendments thereto*, or fact-finding efforts as
7 provided in K.S.A. 72-5428, *and amendments thereto*, or arbitration
8 pursuant to an agreement entered into pursuant to K.S.A. 72-5424, *and*
9 *amendments thereto*; or

10 (8) institute or attempt to institute a lockout.

11 (c) It shall be a prohibited practice for professional employees or
12 professional employees' organizations or their designated representatives
13 willfully to:

14 (1) Interfere with, restrain or coerce professional employees in the
15 exercise of rights granted in K.S.A. 72-5414, *and amendments thereto*;

16 (2) interfere with, restrain or coerce a board of education with respect
17 to rights or duties which are reserved thereto under K.S.A. 72-5423, and
18 amendments thereto, or with respect to selecting a representative for the
19 purpose of professional negotiation or the adjustment of grievances;

20 (3) refuse to negotiate in good faith with the board of education or its
21 designated representatives ~~as required~~ *in accordance with the provisions of*
22 *K.S.A. 72-5423, and amendments thereto*;

23 (4) refuse to participate in good faith in the mediation as provided in
24 K.S.A. 72-5427, *and amendments thereto*, or fact-finding efforts as
25 provided in K.S.A. 72-5428, *and amendments thereto*, or arbitration
26 pursuant to an agreement entered into pursuant to K.S.A. 72-5424, *and*
27 *amendments thereto*; or

28 (5) authorize, instigate, aid or engage in a strike or in picketing of any
29 facility under the jurisdiction and control of the board of education.

30 Sec. 13. K.S.A. 72-8246 is hereby amended to read as follows: 72-
31 8246. (a) As used in this section:

32 (1) "Teacher" means teachers, supervisors, principals, superintendents
33 and any other professional employees who are required to hold a teacher's
34 or school administrator's certificate in any public school.

35 (2) "Board of education" means the board of education of any public
36 school district.

37 (b) The board of education may pay employment incentive or
38 retention bonuses to teachers.

39 (c) *The board of education may establish alternative compensation*
40 *plans for high performing teachers or teachers in hard-to-fill positions as*
41 *determined by the board. These compensation plans shall not be subject to*
42 *K.S.A. 72-5413, et seq., and amendments thereto.*

43 Sec. 14. K.S.A. 72-5415, 72-5416, 72-5417, 72-5418, 72-5419, 72-

1 5420, 72-5421, 72-5423, 72-5424, 72-5426, 72-5428a, 72-5430 and 72-
2 8246 and K.S.A. 2012 Supp. 72-5413 are hereby repealed.

3 Sec. 15. This act shall take effect and be in force from and after its
4 publication in the Kansas register.

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