

HOUSE BILL No. 2326

By Committee on Commerce, Labor and Economic Development

2-12

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, 72-5421, 72-5423, 72-~~
4 ~~5424, 72-5426 and 72-5430 and K.S.A. 2014 Supp. 72-5413 and 72-~~
5 ~~5437 and repealing the existing sections; also repealing K.S.A. 72-5420~~
6 ~~and 72-5428a. {AN ACT concerning school districts; relating to the~~
7 ~~professional negotiations act; amending K.S.A. 72-5423 and K.S.A.~~
8 ~~2014 Supp. 72-5413 and repealing the existing sections.}~~
9

10 *Be it enacted by the Legislature of the State of Kansas:*

11 ~~Sec. Section 1. K.S.A. 2014 Supp. 72-5413 is hereby amended to read~~
12 ~~as follows: 72-5413. As used in this act and in acts amendatory thereof or~~
13 ~~supplemental thereto:~~

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

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

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

32 ~~(d) "Administrative employee" means, in the case of a school district,~~
33 ~~any person who is employed by a board of education in an administrative~~
34 ~~capacity and who is fulfilling duties for which an administrator's certificate~~

1 is required under K.S.A. 72-7513, and amendments thereto; and, in the
2 case of an area vocational-technical school or community college, any
3 person who is employed by the board of control or the board of trustees in
4 an administrative capacity and who is acting in that capacity and who has
5 authority, in the interest of the board of control or the board of trustees, to
6 hire, transfer, suspend, layoff, recall, promote, discharge, assign, reward or
7 discipline other employees, or responsibly to direct them or to adjust their
8 grievances, or effectively to recommend a preponderance of such actions,
9 if in connection with the foregoing, the exercise of such authority is not of
10 a merely routine or clerical nature, but requires the use of independent
11 judgment.

12 (e) "Professional employees' organizations" means any one or more
13 organizations, agencies, committees, councils or groups of any kind in
14 which professional employees participate, and which exist for the purpose,
15 in whole or part, of engaging in professional negotiation with boards of
16 education with respect to the terms and conditions of professional service
17 or for the purpose of professional development or liability protection.

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

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

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

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

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

42 (k) "Lockout" means action taken by a board of education to provoke
43 interruptions of or prevent the continuity of work normally and usually

1 performed by the professional employees for the purpose of coercing
2 professional employees into relinquishing rights guaranteed by this act and
3 the act of which this section is amendatory.

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

32 (2) Nothing in this act, and amendments thereto, shall authorize any
33 professional employees' organization to be granted the exclusive privilege
34 of access to the use of school or college facilities for meetings, the use of
35 bulletin boards on or about the facility or the use of school or college mail
36 systems.

37 (3) Nothing in this act, and amendments thereto, shall authorize the
38 diminution of any right, duty or obligation of either the professional
39 employee or the board of education which have been fixed by statute or by
40 the constitution of this state. Except as otherwise expressly provided in
41 this subsection (1), the fact that any matter may be the subject of a statute
42 or the constitution of this state does not preclude negotiation thereon so
43 long as the negotiation proposal would not prevent the fulfillment of the

1 statutory or constitutional objective.

2 ~~(4) Matters which relate to the duration of the school term, and~~
3 ~~specifically to consideration and determination by a board of education of~~
4 ~~the question of the development and adoption of a policy to provide for a~~
5 ~~school term consisting of school hours, are not included within the~~
6 ~~meaning of terms and conditions of professional service and are not~~
7 ~~subject to professional negotiation.~~

8 ~~(5) Matters which relate to the length of teaching periods and the~~
9 ~~number of teaching periods shall not be included within the meaning of~~
10 ~~terms and conditions of professional service and shall not be subject to~~
11 ~~professional negotiation.~~

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

13 (n) "Statutory declaration of impasse date" means June 1 in the
14 current school year.

15 (o) "Supplemental contracts" means contracts for employment duties
16 other than those services covered in the principal or primary contract of
17 employment of the professional employee and shall include, but not be
18 limited to, such services as coaching, supervising, directing and assisting
19 extracurricular activities, chaperoning, ticket-taking, lunchroom
20 supervision, and other similar and related activities.

21 ~~Sec. 2. K.S.A. 72-5415 is hereby amended to read as follows: 72-~~
22 ~~5415. (a) When a representative is designated or selected for the purposes~~
23 ~~of professional negotiation by the majority of the professional employees~~
24 ~~in an appropriate negotiating unit, such representative shall be the~~
25 ~~exclusive representative of all *may represent any of* the professional~~
26 ~~employees in the unit for such purpose *at the discretion of each*~~
27 ~~*professional employee in the unit.*~~

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

34 ~~Sec. 3. K.S.A. 72-5416 is hereby amended to read as follows: 72-~~
35 ~~5416. (a) If professional employees of a board of education are not~~
36 ~~represented by a professional employees' organization for the purpose of~~
37 ~~professional negotiation, any professional employees' organization may~~
38 ~~file a request with the board of education alleging that a majority of the~~
39 ~~professional employees in an appropriate negotiating unit wish to be~~
40 ~~represented for such purpose by such organization and asking the board of~~
41 ~~education to recognize it as the exclusive representative *a representative of*~~
42 ~~*the unit* under K.S.A. 72-5415, *and amendments thereto.* Such request~~
43 ~~shall describe the grouping of jobs or positions which constitute the unit~~

1 claimed to be appropriate and shall include a demonstration of majority
2 support through verified membership lists. Notice of such request shall
3 immediately be posted by the board of education on a bulletin board at
4 each school or other facility in which members of the unit claimed to be
5 appropriate are employed.

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

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

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

15 (3) one or more of the professional employees included in the unit
16 claimed to be appropriate files with the board of education within ten (10)
17 10 calendar days after the posting of notice of the original request a
18 competing request alleging majority support and asking the board of
19 education to deny the request for recognition; or

20 (4) the board of education, within the previous twelve (12) 12
21 months, has lawfully denied or withdrawn the recognition of a professional
22 employees' organization as the exclusive *a* representative of the
23 professional employees included in the unit claimed to be appropriate; or

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

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

31 (2) *No provision of any agreement between a professional employees'*
32 *organization and a board of education shall require or otherwise impose*
33 *upon a professional employee representation by such professional*
34 *employees' organization unless such professional employee:*

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

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

38 Sec. 4. K.S.A. 72-5417 is hereby amended to read as follows: 72-
39 5417. (a) A petition may be filed with the secretary, asking the secretary to
40 investigate and decide the question of whether: (1) Professional employees
41 in an appropriate negotiating unit have designated a professional
42 employees' organization for recognition as an exclusive *a* representative
43 for purposes of K.S.A. 72-5415, and amendments thereto; (2) a

1 professional employees' organization which is the *a* recognized exclusive
2 representative should be replaced by another professional employees'
3 organization; *or* (3) recognition of a professional employees' organization
4 as the exclusive *a* representative should be withdrawn.

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

6 (1) A board of education alleging that it has received a request for
7 exclusive recognition from a professional employees' organization and has
8 a good faith doubt as to the accuracy or validity of the claims made in the
9 request; *or*

10 (2) a professional employees' organization; *or*

11 (3) one or more professional employees seeking withdrawal of
12 recognition of a professional employees' organization as the exclusive *a*
13 representative *of the unit*.

14 Sec. 5. K.S.A. 72-5418 is hereby amended to read as follows: 72-
15 5418. (a) Upon receipt of a petition under K.S.A. 72-5417, *and*
16 *amendments thereto*, and except as provided in subsection (b), the
17 secretary or a person or persons designated by the secretary may direct and
18 conduct a secret ballot election in order to decide the questions raised by
19 the petition.

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

23 (1) The petition is filed by a professional employees' organization and
24 is not supported by credible evidence that at least thirty percent (30%)
25 30% of the professional employees in the appropriate unit are members of
26 the professional employees' organization filing the petition; *or*

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

32 (3) the board of education, within the previous twelve (12) months,
33 has lawfully recognized a professional employees' organization other than
34 the petitioner as the exclusive representative of any professional
35 employees included in the unit described in the petition; *or*

36 (4) the board of education, within the previous twelve (12) months,
37 has lawfully denied or withdrawn the recognition of a professional
38 employees' organization as the exclusive representative of the professional
39 employees included in the unit described in the petition; *or*

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

43 Sec. 6. K.S.A. 72-5419 is hereby amended to read as follows: 72-

1 5419. If the secretary does not dismiss a petition filed under K.S.A. 72-
2 5417, ~~and amendments thereto~~, and determines that it is necessary to direct
3 and conduct a secret ballot election in order to resolve the questions raised
4 by the petition, the secretary shall order the election held and shall
5 determine the eligibility of professional employees to vote at the election.
6 The secretary shall base his or her determination of the questions raised by
7 the petition upon the result favored by the majority of the professional
8 employees who vote at the election if at least a majority of the eligible
9 professional employees vote. If less than a majority of the eligible
10 professional employees vote at any election conducted under this section,
11 the status of the professional employees with regard to representation prior
12 to the election is maintained. The name of a professional employees'
13 organization shall not appear on the ballot unless: (a) The professional
14 employees' organization has submitted to the secretary satisfactory
15 evidence demonstrating that at least thirty percent (30%) ~~30%~~ of the
16 professional employees in the appropriate unit are members in good
17 standing of such organization,; or (b) the professional employees'
18 organization is the currently recognized exclusive ~~as a~~ representative of
19 such unit. In addition to the name of any professional employees'
20 organization entitled to be contained thereon, the ballot in the election
21 shall contain the choice of "no representation." When an election in which
22 the ballot contains three (3) or more choices results in no choice receiving
23 a majority of the votes cast, the secretary shall conduct a run-off election
24 by secret ballot. The ballot in a run-off election shall only provide for a
25 selection between the two choices receiving the largest and second largest
26 number of votes in the original election. The secretary shall certify the
27 result of the election to the parties involved therein.

28 Sec. 7. K.S.A. 72-5421 is hereby amended to read as follows: 72-
29 5421. (a) A board of education and an exclusive ~~a~~ representative selected
30 or designated under the provisions of this act, or the act of which this
31 section is amendatory, may enter into an agreement covering terms and
32 conditions of professional service. The agreement becomes binding when
33 ratified by a majority of the members of the board of education and a
34 majority of the professional employees in the applicable negotiating unit
35 who vote on the question of ratification of the agreement at an election
36 conducted by the exclusive representative if at least a majority of the
37 professional employees in the negotiating unit vote. If less than a majority
38 of the professional employees vote on the question of ratification, the
39 election is void.

40 (b) Every professional employee in the applicable negotiating unit
41 who is to be absent from the place and at the time of the election may vote
42 an absentee ballot on the question of ratification of the agreement. Upon
43 written application by a professional employee for an absentee ballot, the

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

13 Sec. 8. K.S.A. 72-5423 is hereby amended to read as follows: 72-
14 5423. (a) Nothing in this act, or the act of which this section is
15 amendatory, shall be construed to change or affect any right or duty
16 conferred or imposed by law upon any board of education, except that
17 boards of education are required to comply with this act, and the act of
18 which this section is amendatory, in recognizing professional employees'
19 organizations, and when such an organization is recognized, the board of
20 education and the professional employees' organization shall *may* enter
21 into professional negotiations on request of either party at any time during
22 the school year prior to issuance or renewal of the annual teachers'
23 contracts. Notices to negotiate on new items or to amend an existing
24 contract must be filed on or before February 1 in any school year by either
25 party, such notices shall be in writing and delivered to the chief
26 administrative officer of the board of education or to the representative of
27 the bargaining unit and shall contain in reasonable and understandable
28 detail the purpose of the new or amended items desired.

29 (b) Except as otherwise expressly provided in this subsection, every
30 meeting, conference, consultation and discussion between a professional
31 employees' organization or its representatives and a board of education or
32 its representatives during the course of professional negotiation and every
33 hearing conducted by the secretary under K.S.A. 72-5426, and
34 amendments thereto, for determination of the question of the existence of
35 impasse is subject to the provisions of the Kansas open meetings law, and
36 any amendments or supplements thereto. Meetings, conferences,
37 consultations and discussions held by the secretary under K.S.A. 72-5426,
38 and amendments thereto, for investigation of the question of the existence
39 of impasse, and meetings, conferences, consultations and discussions held
40 during the course of and in connection with, and the meeting required at
41 the conclusion of, impasse resolution proceedings, as provided for in
42 K.S.A. 72-5427 and 72-5428, and amendments to such sections, are
43 specifically made exempt from the provisions of the Kansas open meetings

1 law, and any amendments or supplements thereto.

2 (e) ~~Nothing in this act, or the act of which this section is amendatory,~~
3 ~~shall be construed to authorize a strike by professional employees.~~

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

9 Sec. 9. ~~K.S.A. 72-5424 is hereby amended to read as follows: 72-~~
10 ~~5424. (a) A board of education and a professional employees' organization~~
11 ~~who enter into an *Any* agreement covering terms and conditions of~~
12 ~~professional service may include in such agreement procedures for final~~
13 ~~and binding arbitration of such disputes as may arise involving the~~
14 ~~interpretation, application or violation of such agreement.~~

15 (b) ~~Where a party to such agreement is aggrieved by the failure,~~
16 ~~neglect or refusal of the other party to proceed to arbitration in the manner~~
17 ~~provided for in such agreement, such aggrieved party may file a complaint~~
18 ~~in court for a summary action without jury seeking an order directing that~~
19 ~~the arbitration proceed in the manner provided for in such agreement.~~

20 Sec. 10. ~~K.S.A. 72-5426 is hereby amended to read as follows: 72-~~
21 ~~5426. (a) If in the course of professional negotiation either the board of~~
22 ~~education or the *a* recognized professional employees' organization, or~~
23 ~~both, believe that an impasse exists therein, either party individually or~~
24 ~~both parties together may file a petition with the secretary, asking the~~
25 ~~secretary to investigate and determine the question of whether an impasse~~
26 ~~exists in professional negotiation and, if a finding that an impasse exists is~~
27 ~~made, to begin impasse resolution procedures as provided in K.S.A. 72-~~
28 ~~5427 and 72-5428, and amendments thereto. Within the five days~~
29 ~~immediately following the date of filing, excluding Saturdays, Sundays~~
30 ~~and legal holidays, the secretary shall begin investigation of the question~~
31 ~~raised by the petition and in order to determine the question may meet with~~
32 ~~the parties or their representatives or both, either jointly or separately, and~~
33 ~~may hold such conferences, consultations and discussions therewith as the~~
34 ~~secretary deems necessary. If the secretary decides on the basis of the~~
35 ~~investigation that a hearing is necessary to determine the question, the~~
36 ~~secretary shall conduct the hearing immediately in accordance with the~~
37 ~~provisions of the Kansas administrative procedure act.~~

38 (b) ~~If the secretary finds that no impasse exists in professional~~
39 ~~negotiation between the parties, the secretary shall order the parties to~~
40 ~~continue professional negotiation.~~

41 (c) ~~If the secretary finds that an impasse exists in professional~~
42 ~~negotiation between the parties, the secretary shall begin impasse~~
43 ~~resolution procedures in accordance with K.S.A. 72-5427 and 72-5428,~~

1 and amendments thereto.

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

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

14 ~~Sec. 11. K.S.A. 72-5430 is hereby amended to read as follows: 72-~~
15 ~~5430. (a) The commission of any prohibited practice, as defined in this~~
16 ~~section, among other actions, shall constitute evidence of bad faith in~~
17 ~~professional negotiation.~~

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

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

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

24 ~~(3) discriminate in regard to hiring or any term or condition of~~
25 ~~employment to encourage or discourage membership in any professional~~
26 ~~employees' organization;~~

27 ~~(4) discharge or discriminate against any professional employee~~
28 ~~because such professional employee has filed any affidavit, petition or~~
29 ~~complaint or given any information or testimony under this act, or because~~
30 ~~such professional employee has formed, joined or chosen to be represented~~
31 ~~by any professional employees' organization;~~

32 ~~(5) refuse to negotiate in good faith with representatives of~~
33 ~~recognized professional employees' organizations as required in~~
34 ~~accordance with the provisions of K.S.A. 72-5423, and amendments~~
35 ~~thereto;~~

36 ~~(6) deny the rights accompanying recognition of a professional~~
37 ~~employees' organization which are granted in K.S.A. 72-5415, and~~
38 ~~amendments thereto;~~

39 ~~(7) refuse to participate in good faith in the mediation as provided in~~
40 ~~K.S.A. 72-5427, and amendments thereto, or fact-finding efforts as~~
41 ~~provided in K.S.A. 72-5428, and amendments thereto, or arbitration~~
42 ~~pursuant to an agreement entered into pursuant to K.S.A. 72-5424, and~~
43 ~~amendments thereto; or~~

1 ~~(8) institute or attempt to institute a lockout.~~

2 ~~(e) It shall be a prohibited practice for professional employees or~~
3 ~~professional employees' organizations or their designated representatives~~
4 ~~willfully to:~~

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

7 ~~(2) interfere with, restrain or coerce a board of education with respect~~
8 ~~to rights or duties which are reserved thereto under K.S.A. 72-5423, and~~
9 ~~amendments thereto, or with respect to selecting a representative for the~~
10 ~~purpose of professional negotiation or the adjustment of grievancees;~~

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

14 ~~(4) refuse to participate in good faith in the mediation as provided in~~
15 ~~K.S.A. 72-5427, and amendments thereto, or fact-finding efforts as~~
16 ~~provided in K.S.A. 72-5428, and amendments thereto, or arbitration~~
17 ~~pursuant to an agreement entered into pursuant to K.S.A. 72-5424, and~~
18 ~~amendments thereto; or~~

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

21 ~~Sec. 12. K.S.A. 2014 Supp. 72-5437 is hereby amended to read as~~
22 ~~follows: 72-5437. (a) All contracts of employment of teachers, except~~
23 ~~contracts entered into under the provisions of K.S.A. 72-5412a, and~~
24 ~~amendments thereto, shall be deemed to continue for the next succeeding~~
25 ~~school year unless written notice of termination or nonrenewal is served as~~
26 ~~provided in this subsection. Written notice to terminate a contract may be~~
27 ~~served by a board upon any teacher prior to the time the contract has been~~
28 ~~completed, and written notice of intention to nonrenew a contract shall be~~
29 ~~served by a board upon any teacher on or before the third Friday in May. A~~
30 ~~teacher shall give written notice to a board that the teacher does not desire~~
31 ~~continuation of a contract on or before the 14th calendar day following the~~
32 ~~third Friday in May or, if applicable, not later than 15 days after the~~
33 ~~issuance of a unilateral contract as authorized by K.S.A. 72-5428a, and~~
34 ~~amendments thereto, whichever is the later date.~~

35 ~~(b) Terms of a contract may be changed at any time by mutual~~
36 ~~consent of both a teacher and a board.~~

37 ~~(c) As used in this section:~~

38 ~~(1) "Board of education" or "board" means the board of education of~~
39 ~~any school district, the governing body of any technical college or the~~
40 ~~institute of technology at Washburn university, and the board of trustees of~~
41 ~~any community college.~~

42 ~~(2) "Professional employee" means any person employed by a board~~
43 ~~of education in a position which requires a certificate issued by the state~~

1 board of education or employed by a board of education in a professional,
2 educational or instructional capacity.

3 (3) (A) ~~"Teacher" means any professional employee who is required~~
4 ~~to hold a certificate to teach in any school district, and any teacher or~~
5 ~~instructor in any technical college, the institute of technology at Washburn~~
6 ~~university or any community college, including any professional employee~~
7 ~~who is a retirant from school employment of the Kansas public employees~~
8 ~~retirement system.~~

9 (B) ~~The term "teacher" does not include any supervisors, principals or~~
10 ~~superintendents or any persons employed under the authority of K.S.A. 72-~~
11 ~~8202b, and amendments thereto, or any persons employed in any~~
12 ~~administrative capacity by any technical college, the institute of~~
13 ~~technology at Washburn university or any community college.~~

14 Sec. 13. ~~K.S.A. 72-5415, 72-5416, 72-5417, 72-5418, 72-5419, 72-~~
15 ~~5420, 72-5421, 72-5423, 72-5424, 72-5426, 72-5428a and 72-5430 and~~
16 ~~K.S.A. 2014 Supp. 72-5413 and 72-5437 are hereby repealed.~~

17 Sec. 14. ~~This act shall take effect and be in force from and after July~~
18 ~~1, 2016, and its publication in the statute book.~~

19 **Section 1. K.S.A. 2014 Supp. 72-5413 is hereby amended to read**
20 **as follows: 72-5413. As used in this act, and in acts amendatory thereof**
21 **or supplemental amendments thereto:**

22 (a) **The term "persons" includes one or more individuals,**
23 **organizations, associations, corporations, boards, committees,**
24 **commissions, agencies, or their representatives.**

25 (b) **"Board of education" means the state board of education**
26 **pursuant to its authority under K.S.A. 76-1001a and 76-1101a, and**
27 **amendments thereto, the board of education of any school district, the**
28 **board of control of any area vocational-technical school and the board**
29 **of trustees of any community college.**

30 (c) **"Professional employee" means any person employed by a**
31 **board of education in a position which requires a certificate issued by**
32 **the state board of education or employed by a board of education in a**
33 **professional, educational or instructional capacity, but shall not mean**
34 **any such person who is an administrative employee and, commencing**
35 **in the 2006-2007 school year, shall not mean any person who is a**
36 **retirant from school employment of the Kansas public employees**
37 **retirement system, regardless of whether an agreement between a**
38 **board of education and an exclusive representative of professional**
39 **employees that covers terms and conditions of professional service**
40 **provides to the contrary.**

41 (d) **"Administrative employee" means, in the case of a school**
42 **district, any person who is employed by a board of education in an**
43 **administrative capacity and who is fulfilling duties for which an**

1 administrator's certificate is required under K.S.A. 72-7513, and
2 amendments thereto; and, in the case of an area vocational-technical
3 school or community college, any person who is employed by the
4 board of control or the board of trustees in an administrative capacity
5 and who is acting in that capacity and who has authority, in the
6 interest of the board of control or the board of trustees, to hire,
7 transfer, suspend, layoff, recall, promote, discharge, assign, reward or
8 discipline other employees, or responsibly to direct them or to adjust
9 their grievances, or effectively to recommend a preponderance of such
10 actions, if in connection with the foregoing, the exercise of such
11 authority is not of a merely routine or clerical nature, but requires the
12 use of independent judgment.

13 (e) "Professional employees' organizations" means any one or
14 more organizations, agencies, committees, councils or groups of any
15 kind in which professional employees participate, and which exist for
16 the purpose, in whole or part, of engaging in professional negotiation
17 with boards of education with respect to the terms and conditions of
18 professional service or for the purpose of professional development or
19 liability protection.

20 (f) "Representative" means any professional employees'
21 organization or any person it authorizes or designates to act in its
22 behalf or any person a board of education authorizes or designates to
23 act in its behalf.

24 (g) "Professional negotiation" means meeting, conferring,
25 consulting and discussing in a good faith effort by both parties to
26 reach agreement with respect to the terms and conditions of
27 professional service.

28 (h) "Mediation" means the effort through interpretation and
29 advice by an impartial third party to assist in reconciling a dispute
30 concerning terms and conditions of professional service which arose in
31 the course of professional negotiation between a board of education or
32 its representatives and representatives of the recognized professional
33 employees' organization.

34 (i) "Fact-finding" means the investigation by an individual or
35 board of a dispute concerning terms and conditions of professional
36 service which arose in the course of professional negotiation, and the
37 submission of a report by such individual or board to the parties to
38 such dispute which includes a determination of the issues involved,
39 findings of fact regarding such issues, and the recommendation of the
40 fact-finding individual or board for resolution of the dispute.

41 (j) "Strike" means an action taken for the purpose of coercing a
42 change in the terms and conditions of professional service or the
43 rights, privileges or obligations thereof, through any failure by

1 concerted action with others to report for duty including, but not
2 limited to, any work stoppage, slowdown, or refusal to work.

3 (k) "Lockout" means action taken by a board of education to
4 provoke interruptions of or prevent the continuity of work normally
5 and usually performed by the professional employees for the purpose
6 of coercing professional employees into relinquishing rights
7 guaranteed by this act and the act of which this section is amendatory.

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

37 (2) Nothing in this act, and amendments thereto, shall authorize
38 any professional employees' organization to be granted the exclusive
39 privilege of access to the use of school or college facilities for meetings,
40 the use of bulletin boards on or about the facility or the use of school
41 or college mail systems.

42 (3) Nothing in this act, and amendments thereto, shall authorize
43 the diminution of any right, duty or obligation of either the

1 professional employee or the board of education which have been
2 fixed by statute or by the constitution of this state. Except as otherwise
3 expressly provided in this subsection (l), the fact that any matter may
4 be the subject of a statute or the constitution of this state does not
5 preclude negotiation thereon so long as the negotiation proposal would
6 not prevent the fulfillment of the statutory or constitutional objective.

7 (4) Matters which relate to the duration of the school term, and
8 specifically to consideration and determination by a board of
9 education of the question of the development and adoption of a policy
10 to provide for a school term consisting of school hours, are not
11 included within the meaning of terms and conditions of professional
12 service and are not subject to professional negotiation.

13 (m) "Secretary" means the secretary of labor or a designee
14 thereof.

15 (n) "Statutory declaration of impasse date" means ~~June 1~~ July 31
16 in the current school year.

17 (o) "Supplemental contracts" means contracts for employment
18 duties other than those services covered in the principal or primary
19 contract of employment of the professional employee and shall
20 include, but not be limited to, such services as coaching, supervising,
21 directing and assisting extracurricular activities, chaperoning, ticket-
22 taking, lunchroom supervision, and other similar and related activities

23 Sec. 2. K.S.A. 72-5423 is hereby amended to read as follows: 72-
24 5423. (a) Nothing in this act, or the act of which this section is
25 amendatory, shall be construed to change or affect any right or duty
26 conferred or imposed by law upon any board of education, except that
27 boards of education are required to comply with this act, and the act
28 of which this section is amendatory, in recognizing professional
29 employees' organizations, and when such an organization is
30 recognized, the board of education and the professional employees'
31 organization shall enter into professional negotiations on request of
32 either party at any time during the school year prior to issuance or
33 renewal of the annual teachers' contracts. Notices to negotiate on new
34 items or to amend an existing contract must be filed on or before
35 ~~February 1~~ March 31 in any school year by either party, such notices
36 shall be in writing and delivered to the chief administrative officer of
37 the board of education or to the representative of the bargaining unit
38 and shall contain in reasonable and understandable detail the purpose
39 of the new or amended items desired.

40 (b) (1) *Upon entering negotiations pursuant to this section, the*
41 *parties shall negotiate compensation of professional employees. In*
42 *addition to compensation, each party may select not more than five*
43 *additional terms and conditions of professional service from the list*

1 *described in K.S.A. 72-5413(l)(1), and amendments thereto, for*
2 *negotiation. All other terms and conditions of professional service*
3 *described in K.S.A. 72-5413(l)(1), and amendments thereto, shall be*
4 *deemed permissive topics for negotiation and shall only be negotiated*
5 *upon the mutual agreement of the parties.*

6 (2) *For purposes of this section, the term "compensation" means*
7 *salary and wages, supplemental contract salaries and pay for overtime.*

8 (3) *The provisions of this subsection shall not apply to negotiations*
9 *between a board of education and a professional employees' organization*
10 *negotiating for the purpose of reaching their first agreement.*

11 (c) **Except as otherwise expressly provided in this subsection,**
12 **every meeting, conference, consultation and discussion between a**
13 **professional employees' organization or its representatives and a**
14 **board of education or its representatives during the course of**
15 **professional negotiation and every hearing conducted by the secretary**
16 **under K.S.A. 72-5426, and amendments thereto, for determination of**
17 **the question of the existence of impasse is subject to the provisions of**
18 **the Kansas open meetings law, and any amendments or supplements**
19 **thereto. Meetings, conferences, consultations and discussions held by**
20 **the secretary under K.S.A. 72-5426, and amendments thereto, for**
21 **investigation of the question of the existence of impasse, and meetings,**
22 **conferences, consultations and discussions held during the course of**
23 **and in connection with, and the meeting required at the conclusion of,**
24 **impasse resolution proceedings, as provided for in K.S.A. 72-5427 and**
25 **72-5428, and amendments to such sections, are specifically made**
26 **exempt from the provisions of the Kansas open meetings law, and any**
27 **amendments or supplements thereto.**

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

31 (e) **Any agreement lawfully made under the provisions of this**
32 **act, or the act of which this section is amendatory, may be adopted by**
33 **reference and made a part of the employment contract between any**
34 **professional employee of the applicable negotiating unit and a board**
35 **of education for a period of not to exceed three years.**

36 (f) *Those individuals selected by the board of education and the*
37 *professional employees' organization to conduct negotiations pursuant to*
38 *this act shall complete training on conducting negotiations each year. The*
39 *content and format of the training for these individuals shall be*
40 *determined by the respective party each individual represents in*
41 *negotiations.*

42 **Sec. 3. K.S.A. 72-5423 and K.S.A. 2014 Supp. 72-5413 are hereby**
43 **repealed.**

1 **Sec. 4. This act shall take effect and be in force from and after its**
2 **publication in the statute book.}**