AN ACT concerning negotiation of working conditions, including labor
relations, for certain professional employees; amending K.S.A. 72-
5415, 72-5416, 72-5417, 72-5418, 72-5419, 72-5421, 72-5423, 72-
5424, 72-5426 and 72-5430 and K.S.A. 2014 Supp. 72-5413 and 72-
5437 and repealing the existing sections; also repealing K.S.A. 72-5420
and 72-5428a.

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

Sec. 1. K.S.A. 2014 Supp. 72-5413 is hereby amended to read as
follows: 72-5413. As used in this act and in acts amendatory thereof or
supplemental thereto:
(a) The term "persons" includes one or more individuals,
organizations, associations, corporations, boards, committees,
commissions, agencies, or their representatives.
(b) "Board of education" means the state board of education pursuant
to its authority under K.S.A. 76-1001a and 76-1101a, and amendments
thereto, the board of education of any school district, the board of control
of any area vocational-technical school and the board of trustees of any
community college.
(c) "Professional employee" means any person employed by a board
of education in a position which requires a certificate issued by the state
board of education or employed by a board of education in a professional,
educational or instructional capacity, but shall not mean any such person
who is an administrative employee and, commencing in the 2006-2007
school year, shall not mean any person who is a retirant from school
employment of the Kansas public employees retirement system, regardless
of whether an agreement between a board of education and an exclusive
representative of professional employees that covers terms and conditions
of professional service provides to the contrary.
(d) "Administrative employee" means, in the case of a school district,
any person who is employed by a board of education in an administrative
capacity and who is fulfilling duties for which an administrator's certificate
is required under K.S.A. 72-7513, and amendments thereto; and, in the
case of an area vocational-technical school or community college, any
person who is employed by the board of control or the board of trustees in
an administrative capacity and who is acting in that capacity and who has
authority, in the interest of the board of control or the board of trustees, to hire, transfer, suspend, layoff, recall, promote, discharge, assign, reward or discipline other employees, or responsibly to direct them or to adjust their grievances, or effectively to recommend a preponderance of such actions, if in connection with the foregoing, the exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment.

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

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

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

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

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

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

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

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

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

(3) Nothing in this act, and amendments thereto, shall authorize the diminution of any right, duty or obligation of either the professional employee or the board of education which have been fixed by statute or by the constitution of this state. Except as otherwise expressly provided in this subsection-(4), the fact that any matter may be the subject of a statute or the constitution of this state does not preclude negotiation thereon so long as the negotiation proposal would not prevent the fulfillment of the statutory or constitutional objective.

(4) Matters which relate to the duration of the school term, and specifically to consideration and determination by a board of education of the question of the development and adoption of a policy to provide for a
school term consisting of school hours, are not included within the
meaning of terms and conditions of professional service and are not
subject to professional negotiation.
(5) Matters which relate to the length of teaching periods and the
number of teaching periods shall not be included within the meaning of
terms and conditions of professional service and shall not be subject to
professional negotiation.
(m) "Secretary" means the secretary of labor or a designee thereof.
(n) "Statutory declaration of impasse date" means June 1 in the
current school year.
(o) "Supplemental contracts" means contracts for employment duties
other than those services covered in the principal or primary contract of
employment of the professional employee and shall include, but not be
limited to, such services as coaching, supervising, directing and assisting
extracurricular activities, chaperoning, ticket-taking, lunchroom
supervision, and other similar and related activities.

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 4. K.S.A. 72-5417 is hereby amended to read as follows: 72-5417. (a) A petition may be filed with the secretary, asking the secretary to
investigate and decide the question of whether: (1) Professional employees
in an appropriate negotiating unit have designated a professional
employees' organization for recognition as an exclusive representative
for purposes of K.S.A. 72-5415, and amendments thereto; (2) a
professional employees' organization which is the exclusive representative should be replaced by another professional employees' organization; or (3) recognition of a professional employees' organization
as the exclusive representative should be withdrawn.
(b) A petition under subsection (a) may be filed by:

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

(2) a professional employees' organization; or

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

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

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

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

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

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

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

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

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

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

(b) Every professional employee in the applicable negotiating unit who is to be absent from the place and at the time of the election may vote an absentee ballot on the question of ratification of the agreement. Upon written application by a professional employee for an absentee ballot, the exclusive representative shall transmit to the professional employee, in person or by mail to the address provided by the professional employee in the application, a ballot, an unmarked envelope, a larger envelope containing a space for the professional employee's signature and addressed
to the exclusive representative, and instructions to the professional employee for casting the ballot. On receipt of an application under this subsection, the exclusive representative shall prepare and maintain a list of the names of professional employees who have applied for absentee ballots. The returned envelopes shall be checked against the list of names of applicants and the unmarked envelopes containing the ballots shall be extracted. The unmarked ballot envelopes shall be opened and the absentee ballots shall be counted in the same manner as ballots cast at the election.

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) Interfere with, restrain or coerce professional employees in the
exercise of rights granted in K.S.A. 72-5414, and amendments thereto;
(2) dominate, interfere or assist in the formation, existence, or
administration of any professional employees' organization;
(3) discriminate in regard to hiring or any term or condition of
employment to encourage or discourage membership in any professional
employees' organization;
(4) discharge or discriminate against any professional employee
because such professional employee has filed any affidavit, petition or
complaint or given any information or testimony under this act, or because
such professional employee has formed, joined or chosen to be represented
by any professional employees' organization;
(5) refuse to negotiate in good faith with representatives of
recognized professional employees' organizations—as required in
accordance with the provisions of K.S.A. 72-5423, and amendments thereto;
(6) deny the rights accompanying recognition of a professional
employees' organization which are granted in K.S.A. 72-5415, and
amendments thereto;
(7) refuse to participate in good faith in the mediation as provided in
K.S.A. 72-5427, and amendments thereto, or fact-finding efforts as
provided in K.S.A. 72-5428, and amendments thereto, or arbitration
pursuant to an agreement entered into pursuant to K.S.A. 72-5424, and
amendments thereto; or
(8) institute or attempt to institute a lockout.
(c) It shall be a prohibited practice for professional employees or
professional employees' organizations or their designated representatives
willfully to:
(1) Interfere with, restrain or coerce professional employees in the exercise of rights granted in K.S.A. 72-5414, and amendments thereto;
(2) interfere with, restrain or coerce a board of education with respect to rights or duties which are reserved thereto under K.S.A. 72-5423, and amendments thereto, or with respect to selecting a representative for the purpose of professional negotiation or the adjustment of grievances;
(3) refuse to negotiate in good faith with the board of education or its designated representatives as required in accordance with the provisions of K.S.A. 72-5423, and amendments thereto;
(4) refuse to participate in good faith in the mediation as provided in K.S.A. 72-5427, and amendments thereto, or fact-finding efforts as provided in K.S.A. 72-5428, and amendments thereto, or arbitration pursuant to an agreement entered into pursuant to K.S.A. 72-5424, and amendments thereto; or
(5) authorize, instigate, aid or engage in a strike or in picketing of any facility under the jurisdiction and control of the board of education.
Sec. 12. K.S.A. 2014 Supp. 72-5437 is hereby amended to read as follows: 72-5437. (a) All contracts of employment of teachers, except contracts entered into under the provisions of K.S.A. 72-5412a, and amendments thereto, shall be deemed to continue for the next succeeding school year unless written notice of termination or nonrenewal is served as provided in this subsection. Written notice to terminate a contract may be served by a board upon any teacher prior to the time the contract has been completed, and written notice of intention to nonrenew a contract shall be served by a board upon any teacher on or before the third Friday in May. A teacher shall give written notice to a board that the teacher does not desire continuation of a contract on or before the 14th calendar day following the third Friday in May or, if applicable, not later than 15 days after the issuance of a unilateral contract as authorized by K.S.A. 72-5428a, and amendments thereto, whichever is the later date.
(b) Terms of a contract may be changed at any time by mutual consent of both a teacher and a board.
(c) As used in this section:
(1) "Board of education" or "board" means the board of education of any school district, the governing body of any technical college or the institute of technology at Washburn university, and the board of trustees of any community college.
(2) "Professional employee" means any person employed by a board of education in a position which requires a certificate issued by the state board of education or employed by a board of education in a professional, educational or instructional capacity.
(3) (A) "Teacher" means any professional employee who is required to hold a certificate to teach in any school district, and any teacher or
instructor in any technical college, the institute of technology at Washburn university or any community college, including any professional employee who is a retirant from school employment of the Kansas public employees retirement system.

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


Sec. 14. This act shall take effect and be in force from and after its publication in the statute book.