

## 2012 Kansas Statutes

### **75-4322. Definitions.** As used in this act:

(a) "Public employee" means any person employed by any public agency, except those persons classed as supervisory employees, professional employees of school districts, as defined by subsection (c) of K.S.A. 72-5413, elected and management officials, and confidential employees.

(b) "Supervisory employee" means any individual who normally performs different work from his subordinates, having authority, in the interest of the employer, to hire, transfer, suspend, lay off, 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. A memorandum of agreement may provide for a definition of "supervisory employees" as an alternative to the definition herein.

(c) "Confidential employee" means any employee whose unrestricted access to confidential personnel files or other information concerning the administrative operations of a public agency, or whose functional responsibilities or knowledge in connection with the issues involved in the meet and confer process would make his membership in the same employee organization as other employees incompatible with his official duties.

(d) "Professional employee" includes any employee: (1) Whose work is predominantly intellectual and varied in character as opposed to routine mental, manual, mechanical, or physical work; involves the consistent exercise of discretion and judgment; requires knowledge of an advanced type in a field of science or learning customarily acquired by prolonged study in an institution of higher learning; or (2) who has completed courses of prolonged study as described in paragraph (1) of this subsection, and is performing related work under the supervision of a professional person in order to qualify as a professional employee as defined in paragraph (1) of this subsection; or (3) attorneys-at-law or any other person who is registered as a qualified professional by a board of registration or other public body established for such purposes under the laws of this state.

(e) "Elected and management officials" means any elective official and any appointed officer charged by law with major administrative and management responsibilities.

(f) "Public agency" or "public employer" means every governmental subdivision, including any county, township, city, school district, special district, board, commission, or instrumentality or other similar unit whose governing body exercises similar governmental powers, and the state of Kansas and its state agencies.

(g) "Governing body" means the legislative body, policy board or other authority of the public employer possessing legislative or policymaking responsibilities pursuant to the constitution or laws of this state.

(h) "Representative of the public agency" means the chief executive officer of the public employer or his or her designee, except when the governing body provides otherwise, and except in the case of the state of Kansas and its state agencies. Such chief executive shall be for counties, the chairman of the board of county commissioners; for cities, the mayor, city manager or city superintendent; for school districts, the president of the board of education; and for other local units, such similar elected or appointed officer. In the case of the state of Kansas and its state agencies, "representative of the public employer" means a team of persons, the head of which shall be a person designated by the secretary of administration and the heads of the state agency or state agencies involved or one person designated by each such state agency head.

(i) "Employee organization" means any organization which includes employees of a public agency and which has as one of its primary purposes representing such employees in dealings with that public agency over conditions of employment and grievances.

(j) "Recognized employee organization" means an employee organization which has been formally acknowledged by the public agency or certified as representing a majority of the employees of an appropriate unit.

(k) "Business agent" means any authorized person who is a full-time official of an employee organization and whose principal duties are to act or to attempt to act for an employee organization (1) in proceedings to meet and confer and other proceedings involving a memorandum of agreement, (2) in servicing existing memorandums of agreement, or (3) in organizing employees into employee organizations.

(l) "Board" means the public employee relations board established pursuant to this act.

(m) "Meet and confer in good faith" is the process whereby the representative of a public agency and representatives of recognized employee organizations have the mutual obligation personally to meet and confer in order to exchange freely information, opinions and proposals to endeavor to reach agreement on conditions of employment.

(n) "Memorandum of agreement" means a written memorandum of understanding arrived at by the representatives of the public agency and a recognized employee organization which may be presented to the governing body of a public employer or its statutory representative and to the membership of such organization for appropriate action.

(o) "Mediation" means effort by an impartial third party to assist in reconciling a dispute regarding conditions of employment between representatives of the public agency and recognized employee organizations through interpretation and advice.

(p) "Fact-finding" means investigation of such a dispute by an individual, panel, or board with the fact-finder submitting a report to the parties describing the issues involved; the report shall contain recommendations for settlement and may be made public.

(q) "Arbitration" means interpretation of the terms of an existing or a new memorandum of agreement or investigation of disputes by an impartial third party whose decision may or may not be final and binding. Arbitration is advisory when the results are not binding upon the parties; it is final and binding when both parties, of their own volition, agree to submit a dispute to, and to abide by the decision of, the impartial third party.

(r) "Strike" means an action taken for the purpose of coercing a change in the conditions, rights, privileges or obligations of employment through the failure by concerted action with others to report for duty or to work at usual capability in the performance of the normal duties of employment.

(s) "Lockout" means action taken by the public employer to provoke interruptions of or prevent the continuity of work normally and usually performed by the employees for the purpose of coercing the employees into relinquishing rights guaranteed by this act.

(t) "Conditions of employment" means salaries, wages, hours of work, vacation allowances, sick and injury leave, number of holidays, retirement benefits, insurance benefits, prepaid legal service benefits, wearing apparel, premium pay for overtime, shift differential pay, jury duty and grievance procedures, but nothing in this act shall

authorize the adjustment or change of such matters which have been fixed by statute or by the constitution of this state.

(u) "Grievance" means a statement of dissatisfaction by a public employee, supervisory employee, employee organization or public employer concerning interpretation of a memorandum of agreement or traditional work practice.

(v) "Budget submission date" means (1) for any public employers subject to the budget law in K.S.A. 79-2925 *et seq.* the date of July 1, and (2) for any other public employer the date fixed by law. "Budget submission date" means, in the case of the state and its state agencies, the date of September 15.

(w) "Legislature" means the legislature of the state of Kansas.

(x) "State agency" means the same as is ascribed thereto in K.S.A. 75-3701.

**History:** L. 1971, ch. 264, § 2; L. 1972, ch. 340, § 1; L. 1973, ch. 363, § 1; L. 1974, ch. 207, § 6; L. 1977, ch. 302, § 1; July 1.