

HOUSE BILL No. 2085

By Committee on Commerce, Labor and Economic Development

1-24

Proposed Amendments for HB 2085  
February 26, 2013  
Prepared by Ken Wilke  
Office of the Revisor of Statutes

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. 2012 Supp. 72-5413 and  
5 repealing the existing sections; also repealing K.S.A. ~~72-5420 and~~ 72-  
6 5428a.

72-5420,

72-5430 and 72-8246

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

Section 1. K.S.A. 2012 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.

license

(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 ~~for employment 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 retiree 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.

mandatorily negotiable

(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

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

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

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

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

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

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

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

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

42 (l) (1) ~~"Terms and conditions of professional service" means the~~  
43 ~~exclusively limited to: (A) Salaries and wages, including pay for duties~~

mandatorily negotiable

mandatorily negotiable

mandatorily negotiable

mandatorily negotiable

mandatorily negotiable

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

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

38 ~~(3)~~ Matters which relate to the duration of the school term, and  
39 specifically to consideration and determination by a board of education of  
40 the question of the development and adoption of a policy to provide for a  
41 school term consisting of school hours, ~~are not included within the~~  
42 ~~meaning of terms and conditions of professional service and are not~~  
43 ~~subject to professional negotiation.~~

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

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

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

(C) sick leave;

(D) personal leave; and

(E) designation of holidays.

(2) "Permissibly negotiable terms and conditions of professional service"  
shall include those topics which are not specifically identified in paragraph  
(1), but which topics:

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

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

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

(3)

or determination of the length of teaching periods, the  
number of teaching periods and professional appraisal  
criteria and procedures, shall not be construed to be  
within the meaning of either of the terms "mandatorily  
negotiable terms and conditions of professional  
service" or "permissibly negotiable terms and  
conditions of employment" and shall not be

~~(4) 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 a 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:

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

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

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

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

13 (4) the board of education, within the previous ~~twelve (12)~~ 12  
14 months, has lawfully denied or withdrawn the recognition of a professional  
15 employees' organization as ~~the exclusive~~ a representative of the  
16 professional employees included in the unit claimed to be appropriate; or  
17 (5) the secretary, within the previous ~~twelve (12)~~ 12 months, has  
18 conducted a secret ballot election under the provisions of this act, or the  
19 act of which this section is amendatory, and the election resulted in a  
20 majority vote for no representation.

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

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

28 (A) Is a member of such professional employees' organization; and  
29 (B) such professional employee does not exercise the provisions of  
30 paragraph (1).

31 Sec. 4. K.S.A. 72-5417 is hereby amended to read as follows: 72-  
32 5417. (a) A petition may be filed with the secretary, asking the secretary to  
33 investigate and decide the question of whether: (1) Professional employees  
34 in an appropriate negotiating unit have designated a professional  
35 employees' organization for recognition as ~~an exclusive~~ a representative  
36 for purposes of K.S.A. 72-5415, and ~~amendments thereto~~; (2) a  
37 professional employees' organization which is ~~the~~ a recognized ~~exclusive~~  
38 representative should be replaced by another professional employees'  
39 organization; or (3) recognition of a professional employees' organization  
40 as ~~the exclusive~~ a representative should be withdrawn.

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

42 (1) A board of education alleging that it has received a request for  
43 ~~exclusive~~ recognition from a professional employees' organization and has

At the time of initial recognition  
of a bargaining unit for licensed  
staff, or re-certification as  
provided herein, a

1 a good faith doubt as to the accuracy or validity of the claims made in the  
2 request or

3 (2) a professional employees' organization; or

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

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

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

16 (1) The petition is filed by a professional employees' organization and  
17 is not supported by credible evidence that at least ~~thirty percent (30%)~~  
18 *30%* of the professional employees in the appropriate unit are members of  
19 the professional employees' organization filing the petition; or

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

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

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

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

36 Sec. 6. K.S.A. 72-5419 is hereby amended to read as follows: 72-  
37 5419. If the secretary does not dismiss a petition filed under K.S.A. 72-  
38 5417, and *amendments hereto*, and determines that it is necessary to direct

39 and conduct a secret ballot election in order to resolve the questions raised  
40 by the petition, the secretary shall order the election held and shall  
41 determine the eligibility of professional employees to vote at the election.  
42 The secretary shall base his or her determination of the questions raised by  
43 the petition upon the result favored by the majority of the professional

**claim of majority representation of the  
proposed or current employee group**

Professional employees of a board of education may file a request with the board of education alleging that a majority of the professional employees in that educational entity wish to be represented by an identified group for the purpose of professional negotiations, and asking the board of education to recognize such group in that educational entity pursuant to KSA 72-5415, and amendments thereto. Such request shall describe the jobs or positions within the educational entity that are proposed to be part of the negotiations unit, and shall include substantiation of majority support through verified membership lists. Notice of such request shall immediately be posted by the board of education on the district website for access by all members of the proposed unit.

(d) A request for recognition under subsection (c) 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;

(2) another group of professional employees files with the board of education within 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 professional employees of the entity;

(3) one or more of the professional employees included in the unit claimed to be appropriate files with the board of education within 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 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.

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

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

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

21 Sec. 7. ~~K.S.A. 72-5421~~ is hereby amended to read as follows: 72-  
 22 5421. (a) A board of education and ~~an exclusive~~ *a representative* selected  
 23 or designated under the provisions of this act, or the act of which this  
 24 section is amendatory, may enter into an agreement covering terms and  
 25 conditions of professional service. The agreement becomes binding when  
 26 ratified by a majority of the members of the board of education and a  
 27 majority of the professional employees in the applicable negotiating unit  
 28 who vote on the question of ratification of the agreement at an election  
 29 conducted by the ~~exclusive~~ representative if at least a majority of the  
 30 professional employees in the negotiating unit vote. If less than a majority  
 31 of the professional employees vote on the question of ratification, the  
 32 election is void.  
 33 (b) Every professional employee in the applicable negotiating unit  
 34 who is to be absent from the place and at the time of the election may vote  
 35 an absentee ballot on the question of ratification of the agreement. Upon  
 36 written application by a professional employee for an absentee ballot, the  
 37 ~~exclusive~~ representative shall transmit to the professional employee, in  
 38 person or by mail to the address provided by the professional employee in  
 39 the application, a ballot, an unmarked envelope, a larger envelope  
 40 containing a space for the professional employee's signature and addressed  
 41 to the ~~exclusive~~ representative, and instructions to the professional  
 42 employee for casting the ballot. On receipt of an application under this  
 43 subsection, the ~~exclusive~~ representative shall prepare and maintain a list of

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

Sec. 8.

1 the names of professional employees who have applied for absentee  
2 ballots. The returned envelopes shall be checked against the list of names  
3 of applicants and the unmarked envelopes containing the ballots shall be  
4 extracted. The unmarked ballot envelopes shall be opened and the absentee  
5 ballots shall be counted in the same manner as ballots cast at the election.

9.

6 Sec. ~~9.~~ K.S.A. 72-5423 is hereby amended to read as follows: 72-  
7 5423. (a) Nothing in this act, or the act of which this section is  
8 amendatory, shall be construed to change or affect any right or duty  
9 conferred or imposed by law upon any board of education, except that  
10 boards of education are required to comply with this act, and the act of  
11 which this section is amendatory, in recognizing professional employees'  
12 organizations, and when such an organization is recognized, the board of  
13 education and the professional employees' organization ~~shall~~ *may* enter  
14 into professional negotiations on request of either party at any time during  
15 the school year prior to issuance or renewal of the annual teachers'  
16 contracts. Notices to negotiate on new items or to amend an existing  
17 contract must be filed on or before February 1 in any school year by either  
18 party, such notices shall be in writing and delivered to the chief  
19 administrative officer of the board of education or to the representative of  
20 the bargaining unit and shall contain in reasonable and understandable  
21 detail the purpose of the new or amended items desired.

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

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

(e)

40 ~~(d)~~ Any agreement lawfully made under the provisions of this act, or  
41 the act of which this section is amendatory, may be adopted by reference  
42 and made a part of the employment contract between any professional  
43 employee of the applicable negotiating unit and a board of education for a

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



1 period of not to exceed three years.

10.

2 Sec. ~~9~~ K.S.A. 72-5424 is hereby amended to read as follows: 72-  
3 5424. (a) ~~A board of education and a professional employees' organization~~  
4 ~~who enter into an /any agreement covering terms and conditions of~~  
5 ~~professional service may include in such agreement procedures for final~~  
6 ~~and binding arbitration of such disputes as may arise involving the~~  
7 ~~interpretation, application or violation of such agreement.~~

shall not include in such agreement any language  
which provides for binding arbitration of any dispute  
between the board of education and any association  
of employees

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

11.

13 Sec. ~~10~~ K.S.A. 72-5426 is hereby amended to read as follows: 72-  
14 5426. (a) If in the course of professional negotiation either the board of  
15 education or ~~the~~ a recognized professional employees' organization, or  
16 both, believe that an impasse exists therein, either party individually or  
17 both parties together may file a petition with the secretary, asking the  
18 secretary to investigate and determine the question of whether an impasse  
19 exists in professional negotiation and, if a finding that an impasse exists is  
20 made, to begin impasse resolution procedures as provided in K.S.A. 72-  
21 5427 and 72-5428, and amendments thereto. Within the five days  
22 immediately following the date of filing, excluding Saturdays, Sundays  
23 and legal holidays, the secretary shall begin investigation of the question  
24 raised by the petition and in order to determine the question may meet with  
25 the parties or their representatives or both, either jointly or separately, and  
26 may hold such conferences, consultations and discussions therewith as the  
27 secretary deems necessary. If the secretary decides on the basis of the  
28 investigation that a hearing is necessary to determine the question, the  
29 secretary shall conduct the hearing immediately in accordance with the  
30 provisions of the Kansas administrative procedure act.

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

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

38 (d) Notwithstanding the foregoing provisions of this section, an  
39 impasse is deemed to exist if the board of education and ~~the~~ a recognized  
40 professional employees' organization have not reached agreement with  
41 respect to the terms and conditions of professional service by the statutory  
42 declaration of impasse date and, on such date, the parties shall jointly file a  
43 notice of the existence of impasse with the secretary. Upon receipt of such

1 joint notice, the secretary shall begin impasse resolution procedures in  
2 accordance with K.S.A. 72-5427 and 72-5428, and amendments thereto.

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

7 Sec. 11 K.S.A. 72-5430 is hereby amended to read as follows: 72-

12.

8 5430. (a) The commission of any prohibited practice, as defined in this  
9 section, among other actions, shall constitute evidence of bad faith in  
10 professional negotiation.

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

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

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

17 (3) discriminate in regard to hiring or any term or condition of  
18 employment to encourage or discourage membership in any professional  
19 employees' organization;

20 (4) discharge or discriminate against any professional employee  
21 because such professional employee has filed any affidavit, petition or  
22 complaint or given any information or testimony under this act, or because  
23 such professional employee has formed, joined or chosen to be represented  
24 by any professional employees' organization;

25 (5) refuse to negotiate in good faith with representatives of  
26 recognized professional employees' organizations—~~as~~ required in  
27 accordance with the provisions of K.S.A. 72-5423, and amendments  
28 thereto;

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

32 (7) refuse to participate in good faith in the mediation as provided in  
33 K.S.A. 72-5427, and amendments thereto, or fact-finding efforts as  
34 provided in K.S.A. 72-5428, and amendments thereto, or arbitration  
35 pursuant to an agreement entered into pursuant to K.S.A. 72-5424, and  
36 amendments thereto; or

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

38 (c) It shall be a prohibited practice for professional employees or  
39 professional employees' organizations or their designated representatives  
40 willfully to:

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

43 (2) interfere with, restrain or coerce a board of education with respect

1 to rights or duties which are reserved thereto under K.S.A. 72-5423, and  
2 amendments thereto, or with respect to selecting a representative for the  
3 purpose of professional negotiation or the adjustment of grievances;

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

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

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

14 Sec. ~~12~~ 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. 2012 Supp. 72-5413 are hereby repealed.

17 Sec. ~~13~~ This act shall take effect and be in force from and after its  
18 publication in the statute book.  
19

15.

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

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

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

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

(c) The board of education may establish alternative compensation plans for high performing teachers or teachers in hard to fill positions as determined by the board. These compensation plans shall not be subject to K.S.A. 72-5413, et seq., and amendments thereto.  
Sec. 14.

