

SENATE BILL No. 163

By Committee on Education

2-3

1 AN ACT concerning education; relating to school employment contracts;
2 prohibiting school employment contracts from excluding
3 documentation of disciplinary actions or behavioral corrective actions
4 taken with regard to an employee; amending K.S.A. 72-2218 and
5 repealing the existing section.

6
7 *Be it enacted by the Legislature of the State of Kansas:*

8 Section 1. K.S.A. 72-2218 is hereby amended to read as follows: 72-
9 2218. As used in this act, ~~and amendments thereto:~~

10 (a) The term "persons" includes one or more individuals,
11 organizations, associations, corporations, boards, committees,
12 commissions, agencies, or ~~their~~ representatives *thereof*.

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

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

29 (d) "Administrative employee" means, in the case of a school district,
30 any person who is employed by a board of education in an administrative
31 capacity and ~~who is~~ fulfilling duties for which an administrator's certificate
32 is required under K.S.A. 72-255, and amendments thereto; and, in the case
33 of an area vocational-technical school or community college, any person
34 who is employed by the board of control or the board of trustees in an
35 administrative capacity ~~and who is~~, acting in that capacity and ~~who~~ has
36 authority, in the interest of the board of control or the board of trustees, to

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

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

14 (f) "Representative" means any professional employees' organization
15 or any person ~~it authorizes or designates~~ *authorized or designated by such*
16 *organization* to act in its behalf or any person ~~a board of education~~
17 ~~authorizes or designates~~ *authorized or designated by a board of education*
18 to act in its behalf.

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

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

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

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

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

1 the act of which this section is amendatory.

2 (l) (1) "Terms and conditions of professional service" means:

3 (A) Salaries and wages, including pay for duties under supplemental
4 contracts; hours and amounts of work; vacation allowance, holiday, sick,
5 extended, sabbatical and other leave, and number of holidays; retirement;
6 insurance benefits; wearing apparel; pay for overtime; jury duty; grievance
7 procedure, including binding arbitration of grievances; disciplinary
8 procedure; resignations; termination and nonrenewal of contracts;
9 reemployment of professional employees; terms and form of the individual
10 professional employee contract; probationary period; professional
11 employee appraisal procedures; each of the foregoing being a term and
12 condition of professional service, regardless of its impact on the employee
13 or on the operation of the educational system;

14 (B) matters—~~which~~ *that* relate to privileges to be granted the
15 recognized professional employees' organization, including, but not
16 limited to, voluntary payroll deductions; dissemination of information
17 regarding the professional negotiation process and related matters to
18 members of the bargaining unit on school or college premises through
19 direct contact with members of the bargaining unit; reasonable leaves of
20 absence for members of the bargaining unit for organizational purposes,
21 such as engaging in professional negotiation and partaking of instructional
22 programs properly related to the representation of the bargaining unit; any
23 of the foregoing privileges—~~which~~ *that* are granted the recognized
24 professional employees' organization through the professional negotiation
25 process shall not be granted to any other professional employees'
26 organization; and

27 (C) such other matters as the parties mutually agree upon as properly
28 related to professional service including, but not limited to, employment
29 incentive or retention bonuses authorized under K.S.A. 72-2244, and
30 amendments thereto.

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

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

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

7 (5) *Nothing in this act shall authorize any agreement negotiated*
8 *hereunder to exclude documentation in an employee's personnel file of*
9 *disciplinary actions or behavioral corrective actions taken with regard to*
10 *such employee, including, but not limited to, initial warnings and oral*
11 *admonitions.*

12 (m) "Secretary" means the secretary of labor or ~~a~~ *the secretary's*
13 *designee thereof.*

14 (n) "Statutory declaration of impasse date" means July 31 in the
15 current school year.

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

23 Sec. 2. K.S.A. 72-2218 is hereby repealed.

24 Sec. 3. This act shall take effect and be in force from and after its
25 publication in the statute book.