

Substitute for HOUSE BILL No. 2229

By Committee on Federal and State Affairs

3-16

1 AN ACT concerning professional negotiations; establishing the equal
2 access act; amending K.S.A. 2010 Supp. 72-5413 and repealing the
3 existing section.
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5 *Be it enacted by the Legislature of the State of Kansas:*

6 New Section 1. (a) This section shall be known as the equal access
7 act.

8 (b) A board of education shall not grant access to professional
9 employee physical or electronic mailboxes to a professional employees'
10 organization without giving equal access to any other professional
11 employees' organization which requests such access.

12 (c) If a professional employees' organization is permitted to attend
13 new professional employee or other professional employee orientation
14 meetings in an effort to recruit new members, then any other professional
15 employees' organization which requests permission to attend the meeting
16 shall be granted such permission.

17 (d) A board of education shall not designate any day or break in the
18 school calendar by naming or referring to the day or break in school
19 calendar as the name of any professional employees' organization.

20 (e) This act shall be a part of and supplemental to the professional
21 negotiations act, K.S.A. 72-5213 et. seq., and amendments thereto.

22 Sec. 2. K.S.A. 2010 Supp. 72-5413 is hereby amended to read as
23 follows: 72-5413. As used in this act and in acts amendatory thereof or
24 supplemental thereto:

25 (a) The term "persons" includes one or more individuals,
26 organizations, associations, corporations, boards, committees,
27 commissions, agencies, or their representatives.

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

33 (c) "Professional employee" means any person employed by a board
34 of education in a position which requires a certificate issued by the state
35 board of education or employed by a board of education in a professional,

1 educational or instructional capacity, but shall not mean any such person
2 who is an administrative employee and, commencing in the 2006-2007
3 school year, shall not mean any person who is a retirant from school
4 employment of the Kansas public employees retirement system, regardless
5 of whether an agreement between a board of education and an exclusive
6 representative of professional employees that covers terms and conditions
7 of professional service provides to the contrary.

8 (d) "Administrative employee" means, in the case of a school district,
9 any person who is employed by a board of education in an administrative
10 capacity and who is fulfilling duties for which an administrator's certificate
11 is required under K.S.A. 72-7513, and amendments thereto; and, in the
12 case of an area vocational-technical school or community college, any
13 person who is employed by the board of control or the board of trustees in
14 an administrative capacity and who is acting in that capacity and who has
15 authority, in the interest of the board of control or the board of trustees, to
16 hire, transfer, suspend, layoff, recall, promote, discharge, assign, reward or
17 discipline other employees, or responsibly to direct them or to adjust their
18 grievances, or effectively to recommend a preponderance of such actions,
19 if in connection with the foregoing, the exercise of such authority is not of
20 a merely routine or clerical nature, but requires the use of independent
21 judgment.

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

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

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

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

40 (i) "Fact-finding" means the investigation by an individual or board
41 of a dispute concerning terms and conditions of professional service which
42 arose in the course of professional negotiation, and the submission of a
43 report by such individual or board to the parties to such dispute which

1 includes a determination of the issues involved, findings of fact regarding
2 such issues, and the recommendation of the fact-finding individual or
3 board for resolution of the dispute.

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

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

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

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

6 ~~(2)~~(3) Nothing in this act, and amendments thereto, shall authorize
7 the diminution of any right, duty or obligation of either the professional
8 employee or the board of education which have been fixed by statute or by
9 the constitution of this state. Except as otherwise expressly provided in
10 this subsection (1), the fact that any matter may be the subject of a statute
11 or the constitution of this state does not preclude negotiation thereon so
12 long as the negotiation proposal would not prevent the fulfillment of the
13 statutory or constitutional objective.

14 ~~(3)~~(4) Matters which relate to the duration of the school term, and
15 specifically to consideration and determination by a board of education of
16 the question of the development and adoption of a policy to provide for a
17 school term consisting of school hours, are not included within the
18 meaning of terms and conditions of professional service and are not
19 subject to professional negotiation.

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

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

23 (o) "Supplemental contracts" means contracts for employment duties
24 other than those services covered in the principal or primary contract of
25 employment of the professional employee and shall include, but not be
26 limited to, such services as coaching, supervising, directing and assisting
27 extracurricular activities, chaperoning, ticket-taking, lunchroom
28 supervision; and other similar and related activities.

29 Sec. 3. K.S.A. 2010 Supp. 72-5413 is hereby repealed.

30 Sec. 4. This act shall take effect and be in force from and after its
31 publication in the statute book.

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