BEFORE THE SECRETARY OF HUMAN RESOURCES
OF THE STATE OF KANSAS

KNEA-Colby, Petitioner,	)	
v.	)	Case No. 72-CAE-4-1996
Unified School District No. 315, Colby, Kansas, Respondent.	)	

Pursuant to K.S.A. 72-5413 *et seq.* and
K.S.A. 77-501 *et seq.*

INITIAL ORDER

On the 13th day of March, 1996, the above-captioned matter came on for formal hearing pursuant to K.S.A. 72-5430a(a) before the presiding officer, Susan L. Hazlett. The Petitioner, KNEA-Colby, appeared by and through the UniServ Director of Northwest Kansas, Bruce Lindskog. Witnesses on behalf of the Petitioner were Ardella Schmidt, Pam Rundel, and Michelle Kritner. The Respondent, Unified School District No.315, Colby, Kansas, (hereinafter "U.S.D. #315"), appeared by and through counsel, John D. Gatz. Witnesses on behalf of the Respondent were Kirk Nielsen, Carl Combs, Rob Ross, Diana Wieland, and Kathy Kersenbrock-Ostmeyer.

The record in this matter was left open until April 12, 1996, to consider the Petitioner's Motion to Admit Documentary Evidence (Trans. p. 366). Such motion was filed on March 26, 1996, and a response to the motion was filed by the Respondent on April 15, 1996. On May 22, 1996, an Order was issued by the presiding officer granting said motion. Post-hearing briefs were filed by Petitioner and Respondent on June 5, 1996, and June 27, 1996, respectively. Respondent filed a Motion To Add Affidavits To Record on June 27, 1996. No objection to such motion was

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filed by Petitioner, and the motion is hereby granted.

ISSUES

I. WHETHER OR NOT U.S.D. #315 MADE A UNILATERAL CHANGE TO THE EVALUATION PROCEDURE IN THE 1993-94 NEGOTIATED AGREEMENT, IN VIOLATION OF K.S.A. 72-5430(b)(1) and (5), BY ALLOWING AN ADMINISTRATOR OF THE NORTHWEST KANSAS EDUCATIONAL SERVICE CENTER TO OBSERVE U.S.D. #315 CLASSROOMS AND SUBMIT A WRITTEN REPORT REGARDING SUCH OBSERVATIONS TO U.S.D. #315 ADMINISTRATORS.

A. WHETHER OR NOT THE ADMINISTRATOR OF THE NORTHWEST KANSAS EDUCATIONAL SERVICE CENTER FORMALLY EVALUATED U.S.D. #315 SPECIAL EDUCATION TEACHERS AND WHETHER OR NOT THE SUBSTANCE OF HER OBSERVATIONS OF THOSE TEACHERS WAS USED IN ANY FORMAL EVALUATIONS BY U.S.D. #315 ADMINISTRATORS.

B. WHETHER OR NOT THE TERM "EVALUATOR" IS EXPLICITLY OR IMPLICITLY DEFINED AS "BUILDING PRINCIPAL" OR "U.S.D. #315 ADMINISTRATOR" IN THE 1993-94 NEGOTIATED AGREEMENT.

II. WHETHER OR NOT U.S.D. #315 MADE A UNILATERAL CHANGE TO THE EVALUATION PROCEDURE IN THE 1993-94 NEGOTIATED AGREEMENT, IN VIOLATION OF K.S.A. 72-5430(b)(1) and (5), BY DEVELOPING AND IMPLEMENTING A TWO-QUESTION PARENT SURVEY FORM.

FINDINGS OF FACT

1. The Petitioner is a professional employees' organization, as defined by K.S.A. 1995 Supp. 72-5413(e), and is the recognized exclusive professional employees' organization, pursuant to K.S.A. 72-5416 *et seq.*, for the professional employees of U.S.D. #315.

2. The Respondent is a duly organized school district pursuant to Section 5, Article 6, of

the Kansas Constitution and Chapter 72 of the Kansas Statutes Annoted (K.S.A.).

3. KNEA-Colby and U.S.D. #315 are parties to a 1993-1994 negotiated agreement, which sets forth the terms and conditions of the professional relationship of the parties. (Resp. Ex. 1)

4. Article 12 of the above-described negotiated agreement sets forth teacher appraisal procedures required to be utilized by the parties for teacher evaluations, including the requirement that teacher evaluations be performed by an "evaluator." (Resp. Ex. 1)

5. The term "evaluator" is not defined in the above-described negotiated agreement. (Resp. Ex. 1)

6. In approximately 1994, the Board of Education of U.S.D. #315 directed that a review of the proficiency of the special education program be conducted. (Trans. pp. 145, 250)

7. Curriculum Director Diana Wieland testified that she was part of an administrative team who was directed by the Board of Education in 1994 to look at how the special education program could be improved, and in order to do so, Ms. Wiegland requested a team of administrators from the Northwest Kansas Educational Service Center (hereinafter "NKESC") to evaluate the program. NKESC is an interlocal education agency formed by 21 school districts, including U.S.D. #315, to cooperatively provide services to rural school districts that the districts can not provide themselves. A report, dated May 16, 1994, was written by the NKESC evaluation team and submitted to the Board of Education. (Trans. pp. 250-251, 296-297; Resp. Ex. 2; Resp. Ex. 6)

8. The aforementioned May 16, 1994, NKESC report to the Board of Education was entitled "Program Evaluation of Special Education Services" and contained the statements "...we

will discuss programs and recommended improvements...we will focus on programs, not personalities." (Resp. Ex. 6)

9. The aforementioned May 16, 1994, NKESC report to the Board of Education stated the following in the first paragraph:

> This is a report to the Colby School system from NKESC administrative staff regarding program evaluations of their special education services. During this process NKESC administrators interviewed 12 high school regular education teachers, 5 special education teachers, 11 elementary school teachers, 5 elementary special education teachers, 6 paras, 4 staff (NKESC staff and building secretaries) and 17 special education parents for a total of 60 persons. These persons were randomly selected except for two, who were selected by the gifted facilitator at the high school. The team was in Colby for parts of 10 days with the following results... .

Contained in such results were responses to several questions, including "What do you see as the strengths of the Colby Special Education Program?" and What do you see as the weaknesses of Special Education programs?" The report was shared with the special education staff before it was submitted to the Board of Education. (Resp. Ex. 6; Trans. p. 251)

12. The U.S.D. #315 special education program continued to be reviewed subsequent to the NKESC report in May, 1994. By fall of 1994, the administrative team studied how the program could be restructured to include coordination between grades K-12. (Trans. p. 253)

13. The Superintendent of Schools, Carl Combs, submitted a written proposal to the Board of Education in approximately June of 1995 stating the following:

> Shortly after my arrival in Colby, I was made aware by a variety of individuals of a growing discontentment with the performance of USD 315's special education department...Efforts have been made to address those perceptions. In the fall of 1994 the NKESC staff conducted an on site observation and survey to ascertain areas of strengths and needs...The secondary need of uniformity of practice and

> adherence to regulations has been addressed by utilizing an in-district coordinator of Special Education and improved relations with the NKESC staff...The need for more drastic changes and improvements continued to be verbalized. After extensive discussion, the administration was asked to prepare a study showing the ramifications of closing the Special Education Department in USD 315 and contracting for services from NKESC...My recommendation as superintendent is to keep the program in USD 315 and continue to address the known concerns... . (Resp. Ex. 8; Pet. Ex. 8)

14. Minutes of the June 19, 1995, Board of Education meeting reflect that "Diana Wieland reported she...has spen[t] considerable time meeting with staff members in order to prepare the special education proposal." The minutes further reflect that "Lengthy discussion followed regarding budgetary concerns, and recommendations for continuous improvement in the special education program." (Resp. Ex. 9)

15. Attached to the June 19, 1995, Board of Education minutes is a document entitled "Recommend continuous improvement in Special Education Program," which was prepared by Diana Wieland as a result of meeting with special education staff, several of the Board of Education members, and with the administrative team. The document stated "NKESC Special Education Administrative staff and USD #315 Administrative will collaboratively:...Observe and evaluate Special Education staff." The document was not the final plan which was implemented to improve the special education program. (Resp. Ex. 9; Pet. Ex. 8; Trans. p. 258)

16. A "USD #315 Special Education Plan of Improvement" was developed in August of 1995. The plan stated that one objective was to "observe & evaluate Special Services Staff" with the person(s) responsible for that objective being the "USD #315 Special Services Coordinating Team & NKESC Staff." The outcome desired for that objective was stated as the "improvement

of programs." (Resp. Ex. 10; Pet. Ex. 10)

17. Also noted on the "USD #315 Special Education Plan of Improvement" was the objective to "Develop & implement use of parent feedback form," with the persons responsible being the "USD #315 Special Services Coordinating Team & Special Services Staff." The desired outcome for that objective was stated as "Improvement of communication for meeting the needs of students." The plan noted that the "Special Services Coordinating Team" members consisted of the following individuals: Special Education Coordinator, Ron Walz; Curriculum Director, Diana Wieland; School Psychologist, Terry Roberts; and Principals Kirk Nielsen, Robb Ross, and Don Krebs. (Resp. Ex. 10)

18. The expertise and assistance of the NKESC was intended to be used as a resource, in a collaborative effort with the Special Services Coordinating Team for the review and improvement of the special education program. (Trans. pp. 160, 259)

19. It was not the role of the NKESC administrators to assist the U.S.D. #315 building principals in staff evaluations. Staff evaluations have historically and consistently been done by U.S.D. #315 building principals, while the evaluation of the special education program was done jointly by the U.S.D. #315 administrative team and the NKESC administrators. Special Education staff were aware that the NKESC would be "looking at the students in the classroom" and U.S.D. #315 would be "looking at the teachers in the classroom." (Trans. pp. 163, 199-200, 232-233, 260, 300-301, 342; Nielsen Depo. p. 5, 13; Resp. Ex. 5)

20. Kathy Kersenbrock-Ostmeyer is the NKESC Assistant Director of Special Education. As Assistant Director, one of Kersenbrock-Ostmeyer's responsibilities is staff evaluations of

NKESC employees. (Trans. pp. 293-294)

21. Kersenbrock-Ostmeyer observed U.S.D. #315 teachers in U.S.D. #315 classrooms in the fall and winter of 1995 in conjunction with the review of the district's special education program. U.S.D. #315 teachers were notified on October 5, 1995, of Kersenbrock Ostmeyer's anticipated observation of inclusion in the classrooms on October 16, 1995. (Trans. pp. 289, 301-302; Nielsen Depo. 12-13; Pet. Ex. 4)

22. Kersenbrock-Ostmeyer is a member of the Special Education Advisory Council for the Kansas Department of Education. Kersenbrock-Ostmeyer testified that the State requires directors of special education to oversee special education programming, and that the State Board of Education is mandated by state and federal law to monitor and evaluate special education activities, in part by doing comprehensive on-site compliance reviews. (Trans. pp 295-296; 309-310)

23. The observations done by Kersenbrock-Ostmeyer in the fall and winter of 1995 were not done for the purposes of a comprehensive on-site KSBE monitoring and compliance review. (Trans. p. 347)

24. Kersenbrock-Ostmeyer submitted a written report to Kirk Nielsen, Elementary Principal in U.S.D. #315, on October 26, 1995. The subject of the report was referred to as "Program Evaluation Information." The first line of the report states, "Overall, the complexion of the elementary special education program when compared to the program last year at this time, has truly undergone a major facelift." The report continues, stating, "The following will be a summation of my teacher by teacher experiences and recommendations which you may choose to

reference as you conduct your program evaluations." Kersenbrock-Ostmeyer's aforesaid "summation" included some of the following statements:

> ...I also observed [teacher's name] in working within an inclusionary setting with [teacher's name], and in that environment he did an exceptional job working the entire classroom...I don't know if it was my timing as to when I observed her within the resource room, but it did appear to me that she spent a lot of time at her desk when in that environment...She worked with students in a positive manner and was utilizing techniques that would benefit their development...Generally, articulation does need to be worked on in the pull-out environment...I have a question as to whether we are working toward individualization when in a school district the size of Colby, all students with language difficulties are grouped within the regular education environment...when visiting with [teacher's name], and I also observed his sessions to indicate this, he pretty much conducts articulation work with a drill-based intervention...school-aged students benefit and improve at a much faster degree when therapy is conducted with more activity/fun type situations...[teacher's name] is not showing up at Play & Learn...on time on occasion...he is having to cut some sessions short which violates the IEP time stipulation...if you had one teacher that you would want the others to model in terms of the interaction and work that is being done within the general education environment, I would certainly say that [teacher's name] is that model...All in all, your school is demonstrating movement toward a best practice model...The elementary program has come a long way from where it was one year ago...the speech/language program also appears to be making some improvement...
> (Nielsen Depo. p. 13; Pet. post-hearing brief, ex. B, made part of record by Order of May 22, 1996)

25. Kersenbrock-Ostmeyer submitted reports similar to the report described in paragraph 24, above, to the high school principal, Don Krebs, and to the middle school principal, Rob Ross. (Trans. p. 308)

26. Principal Nielsen did not use the information contained in Kersenbrock-Ostmeyer's report of October 26, 1995, in any of his staff evaluations, and he does not use evaluative-type comments about teachers from parents, other teachers, or casual observers. (Nielsen Depo. p.

15, 31-32; Trans. p. 160)

27. Principal Ross did not use the information provided by Kersenbrock-Ostmeyer from her observations in his staff evaluations, teacher discipline or improvement or any employment decision. Mr. Ross did not place, or have placed, such information in any personnel file and discarded the information provided to him after reviewing it. (Trans. p. 160, 225-226)

28. No one other than U.S.D. #315 administrators evaluated U.S.D. #315 staff in the fall and winter of 1995 and none of the information provided by NKESC staff was used in U.S.D. #315 staff evaluations. (Trans. pp. 144, 160)

29. U.S.D. #315 and the NKESC use specific, distinct, and separate forms in formal staff evaluations, which are signed by the individual being evaluated, and neither the U.S.D. #315 evaluation form nor the NKESC evaluation form were utilized by Kersenbrock-Ostmeyer during her observations of the special education program. (Resp. Ex. 13; Resp. Ex. 14; Resp. Ex. 15; Resp. Ex. 16; Trans. pp. 220, 222, 321-326)

30. A survey, entitled "Colby Public Schools Special Education Survey," was sent to parents in the district sometime in the fall of 1995. The survey contained the following two questions: "Do you understand your child's Special Education Program?" and "Are you satisfied with the Individual Education Plan (IEP)?" Both questions had boxes to mark either "Yes" or "No" and provided some space for written comments from the parents. Parents could sign and date the form. (Resp. Ex. 11; Pet. Ex. 14)

31. The above-described parent survey was discussed and developed jointly by U.S.D. #315 administrators and special education staff, in response to the Board of Education's desire to

review the special education program. (Pet. Ex. 12; Pet. Ex. 13; Pet. Ex. 15; Trans. pp. 261-262)

32. The above-described parent survey form was not intended to solicit comments regarding teacher performance, and information obtained through the use of the form was not used in staff evaluations. (Trans. pp. 130-131, 234, 264-265; Pet. Ex. 16; Resp. Ex.)

33. Compliance monitoring by the State of Kansas also includes parent questionnaires, similar to the above-described parent survey, which is designed to ensure that parents understand their children's Individual Education Plans. (Trans. pp. 313-314)

CONCLUSIONS OF LAW

I. WHETHER OR NOT U.S.D. #315 MADE A UNILATERAL CHANGE TO THE EVALUATION PROCEDURE IN THE 1993-94 NEGOTIATED AGREEMENT, IN VIOLATION OF K.S.A. 72-5430(b)(1) and (5), BY ALLOWING AN ADMINISTRATOR OF THE NORTHWEST KANSAS EDUCATIONAL SERVICE CENTER TO OBSERVE U.S.D. #315 CLASSROOMS AND SUBMIT A WRITTEN REPORT REGARDING SUCH OBSERVATIONS TO U.S.D. #315 ADMINISTRATORS.

A. DID THE ADMINISTRATOR OF THE NKESC FORMALLY EVALUATE U.S.D. #315 SPECIAL EDUCATION TEACHERS AND WAS THE SUBSTANCE OF HER OBSERVATIONS OF THOSE TEACHERS USED IN ANY FORMAL EVALUATIONS BY U.S.D. #315 ADMINISTRATORS?

The Professional Negotiations Act (PNA), specifically Kansas Statutes Annotated (K.S.A.) 1995 Supp. 72-5430(b), provides, in part, that:

> 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 ... (5) refuse to negotiate in good faith with representatives of recognized professional employees' organizations as required in K.S.A. 72-5423 and amendments thereto ... .

Pursuant to K.S.A. 72-5414, professional employees have the right

> to participate in professional negotiation with boards of education through representatives of their own choosing for the purpose of establishing, maintaining, protecting or improving *terms and conditions of professional service*. [Emphasis added]

K.S.A. 72-5423 requires that "the board of education and the professional employees' organization shall enter into *professional negotiations*... ."[Emphasis added]

The term "professional negotiations" is specifically defined in K.S.A. 1995 Supp. 5413(g) as:

> 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.* [Emphasis added]

The Kansas legislature expressly included "professional employee appraisal procedures" as a term and condition of professional service. *See* K.S.A. 1995 Supp. 72-5413(l). "If a topic is a statutory term and condition of professional service, then the topic is mandatorily negotiable." *U.S.D. 352 v. NEA Goodland*, 246 Kan. 137, 785 P.2d 993 (1990) Refusal by a school board to negotiate a mandatorily negotiable item, i.e. teacher evaluation procedures, is a prohibited practice contemplated by K.S.A. 1995 Supp. 72-5430(b). *See U.S.D. 314 v. Kansas Department of Human Resources,* 8 Kan.App.2d 596, 856 P.2d 1343 (1993).

The law is very clear; if U.S.D. #315 has refused to enter into professional negotiations or negotiate in good faith with KNEA-Colby in regard to professional employee appraisal procedures, then the Respondent has committed a prohibited practice. The parties in this case do not dispute the law. Rather, the question in this case is one of fact, that being, did the Respondent

allow evaluations of the teachers to occur contrary to the evaluation procedure agreed to by the parties in their 1993-94 negotiated agreement?

In this case, U.S.D. #315 contracted with an educational service center, the NKESC, just as did twenty other area school districts, to obtain assistance from the NKESC for educational services the district could not provide. Pursuant to that contract, U.S.D. #315 asked NKESC for help in reviewing its special education program to determine its strengths and weaknesses. After a preliminary review by the NKESC and the U.S.D. #315 administrative team, Kathy Kersenbrock-Ostmeyer of the NKESC was asked to conduct classroom observations in U.S.D. #315. Evidence offered by the Respondent, both documentary and testimonial, demonstrates that the purpose of her observations was for program review and improvement, and for technical assistance. She made her observations, watching different teachers, dropping in on classrooms, making notes, ultimately submitting a written report to the U.S.D. #315 building principals.

It is, primarily, this written report by Kersenbrock-Ostmeyer which has caused such consternation by the teachers in this matter. The teachers felt they were being evaluated by someone other than the building principal, in violation of their negotiated agreement. Some of Kersenbrock-Ostmeyer's comments in the report were construed by the teachers as evaluative, both negative and positive.

Perhaps they were. But the question which must be asked is, what was Kersenbrock-Ostmeyer evaluating? Evidence in the record indicates that, from the beginning, the respective roles of the NKESC and the U.S.D. #315 administrators were discussed. The NKESC was to help in evaluating the special education program. The U.S.D. #315 building principals would

continue to do the evaluations of the special education staff. As stated in Respondent's post-hearing brief, evaluative-type comments are "an inherent and necessary part of program evaluation."

Kersenbrock-Ostmeyer never used a U.S.D. #315 evaluation form or a NKESC evaluation form, the teachers whose classrooms were observed never signed any type of evaluation form, and most importantly, none of Kersenbrock-Ostmeyer's comments in her written report were ever used by any of the building principals in any of their teacher evaluations. Likewise, none of the program evaluation information provided by NKESC was included in any teacher personnel file. In fact, one principal testified that he discarded the information in the report after reviewing it. All of the building principals testified, along with Superintendent of Schools Carl Combs, that they completely understood they were the proper persons to conduct teacher evaluations, and when doing so, could only evaluate the teachers based on their own personal observations.

Furthermore, U.S.D. #315 made efforts to keep the special education staff apprised of the program review and the participation of the NKESC in that process.

KNEA-Colby attempts to build its case, in part, by offering evidence that U.S.D. #315 noticed evaluation procedures for negotiations in the winter of 1993. U.S.D. #315's proposal, however, had nothing to do with evaluations being done by people outside of the district, and furthermore, the district withdrew the topic from the negotiation table. KNEA-Colby also offered as evidence, the proposed agenda for a staff meeting, which listed "collaborative evaluation procedures" as one of the agenda items. However, the minutes of that meeting stated that : "Collaborative evaluation procedures -- NKESC will be looking at the *students* in the classroom,

and USD No. 315 will be looking at the *teachers* in the classroom." [Emphasis added]

Additionally, KNEA-Colby argued that Combs indicated more than once that he would *prefer* to have the NKESC assist the U.S.D. #315 building administrators in evaluating special education staff. Mr. Combs did not deny that allegation when testifying in the hearing in this case. (Trans. pp. 198-199) However, as stated in Respondent's pre-hearing brief, the issue in this case is not whether the superintendent of schools *intended* to utilize the NKESC in evaluating U.S.D. #315 special education teachers, nor is the issue whether U.S.D. #315 should have been reviewing its special education program. KNEA-Colby does not deny that the Board of Education has the right to review and evaluate the district's programs. The first issue is, simply, did anyone other than U.S.D. #315 building administrators evaluate U.S.D. #315 staff. KNEA-Colby did not present sufficent evidence to prove that Kersenbrock-Ostmeyer, or any person other than the U.S.D. #315 administrators, actually conducted or intended to conduct, or contributed to, any sort of formal evaluations of the U.S.D. #315 special education teachers.

B. IS THE TERM "EVALUATOR" DEFINED AS "BUILDING PRINCIPAL" OR "U.S.D. 315 ADMINISTRATOR" IN THE 1993-94 NEGOTIATED AGREEMENT?

As part of its case, the Respondent offered Article 12, "Teacher Appraisal Procedures," of the 1993-94 negotiated agreement as evidence that the language of the contract is not in dispute. The Respondent admits that the term "evaluator" is not defined in the contract. In response to KNEA-Colby's argument that the term "evaluator" is defined as "building principal" based on past practices of the parties, the Respondent argues that the contract is not ambiguous, and the term

"evaluator" is used independently of the term "administrator" in Article 12 of the negotiated agreement.

Since it is evident that only U.S.D. #315 building principals actually conducted the formal evaluations of U.S.D. #315 staff, and did not utilize any information gleaned from NKESC's report for those evaluations, the issue of how the term "evaluator" is to be defined in the 1993-94 negotiated agreement is irrelevant. Therefore, a determination of this issue is not necessary.

II. WHETHER OR NOT U.S.D. #315 MADE A UNILATERAL CHANGE TO THE EVALUATION PROCEDURE IN THE 1993-94 NEGOTIATED AGREEMENT, IN VIOLATION OF K.S.A. 72-5430(b)(1) and (5), BY DEVELOPING AND IMPLEMENTING A TWO-QUESTION PARENT SURVEY FORM.

KNEA-Colby alleges that the development and utilization of a two-question parent survey form is a prohibited practice. KNEA-Colby's position is that the survey constitutes an evaluation instrument intended to be used in teacher evaluations. The questions on the survey were:

> Do you understand your child's special education program?
> Are you satisfied with the individual education plan (IEP)?

These questions are broad and designed to obtain information about parent satisfaction with the program in general. As a matter of public policy, parents should be able to understand, and be free to comment, on their children's educational needs.

KNEA-Colby has offered no evidence that the parent survey was used, or intended to be used, for teacher evaluation purposes. The survey was collaberatively developed by U.S.D. #315 administration and those special education staff members who volunteered to be on the committee

to develop it. Kersenbrock-Ostmeyer testified that the State of Kansas also utilizes very similar parent questionnaires in its compliance monitoring.

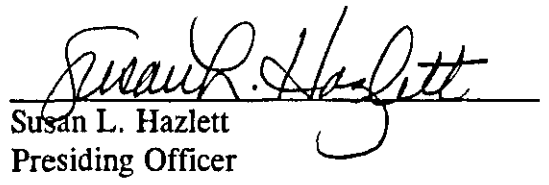
The Petitioner argues that the UniServ Director should have been involved in developing the survey. As the survey was not a part of the teacher appraisal or evaluation procedure, and was not a staff evaluation instrument, it is not a mandatorily negotiable item and, therefore, U.S.D. #315 was under no obligation to include the employee organization representative in the process of developing the survey.

ORDER

IT IS HEREBY ADJUDGED AND DECREED that based upon the facts presented in this case, the Respondent Unified School District No. 315, Colby, Kansas, for the reasons set forth above, has not committed a prohibited practice pursuant to K.S.A. 72-5430(b)(5) relative to the parties' 1993-94 negotiated agreement.

IT IS THEREFORE ORDERED that Petitioner's request for damages is denied and this case is hereby dismissed.

IT IS SO ORDERED this 30th day of August, 1996.



Susan L. Hazlett
Presiding Officer

NOTICE OF RIGHT TO REVIEW

This Initial Order is the official notice of the presiding officer's decision in this case. The Initial Order may be reviewed by the Secretary, either on his own motion, or at the request of a party, pursuant to K.S.A. 77-527. The Order will become final fifteen (15) days from the date of service, plus three (3) days for mailing, unless a petition for review is filed pursuant to K.S.A. 77-526 within that time with the Secretary, addressed to: Kansas Department of Human Resources, Labor Relations, 1430 Topeka Blvd., Topeka, KS 66612.

Certificate of Service

I hereby certify that on the 30th day of August, 1996, a true and correct copy of the above and foregoing Initial Order was placed in the U.S. mail, first class, postage prepaid to:

Bruce Lindskog, Director
Northwest Kansas UniServ
P.O. Box 449
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