BEFORE THE PUBLIC EMPLOYEE RELATIONS BOARD
OF THE STATE OF KANSAS

International Association of
Firefighters (IAFF), Local 2612,
Petitioner,

v.

OAH No. 17DL0091 PE
Wage Claim No. 75-CAE-2-2017

Sedgwick County Fire District No. 1,
Respondent.

INITIAL ORDER

The above-captioned matter was brought by the International Association of Firefighters Local 2612 (hereinafter, "petitioner", "IAFF" or "Union"), alleging that the Sedgwick County Fire District No.1 of Kansas (hereinafter, "respondent" or "County"), has engaged in prohibited practices within the meaning of K.S.A. 75-4333(b)(1) and (b)(5) of the Public Employer-Employee Relations Act (PEERA).

This matter comes before the Office of Administrative Hearings pursuant to K.S.A. 77-501 *et seq*. The hearing of this case was held on April 27, 2017, before the presiding officer, administrative law judge (ALJ) Bob L. Corkins, at the facilities of the Kansas Office of Administrative Hearings in Topeka, Kansas. IAFF appeared by and through its counsel, Diana Nobile and Matt Huntsman, and provided witnesses who testified on its behalf. The County appeared by and through its counsel, Michael North, and provided witnesses who testified on its behalf.

All pleadings the parties filed with the Kansas Public Employee Relations Boad (PERB) regarding their immediate disputes, as well as all pleadings and exhibits submitted by the parties to the ALJ, were accepted into evidence at hearing.

Findings of Fact

1. The parties' jointly submitted stipulations of fact that was signed and filed March 17, 2017, numbering paragraphs 1 – 40, is accurate in its entirety, is fully incorporated into this order as factual findings of this tribunal, and is attached to this order affixed with the label of "Addendum-A" although not all of the findings listed therein are necessarily material to the ALJ's rulings.

2. The issue in this case is whether respondent's unilaterally imposed contract approved on June 8, 2016, covering the full calendar years of 2016 and 2017, contains terms unlawful under PEERA. Relevant to that legal question are factual questions about whether the parties' respective negotiating teams previously agreed to provisions that were omitted from the imposed contract or were different from those of the imposed contract.

3. The parties' negotiating teams did not agree to insert any appendix into the MOA that would display approved examples of t-shirt logos relating to Article 31.

4. The parties' negotiating teams agreed to insert reference to a belt as one of the officially issued uniform items, but the imposed contract Article 31 does not include such belt within its list. Testimony at hearing identified the omitted belt reference as entirely inadvertent and no testimony presented an alternate or additional motive.

5. Petitioner witness IAFF president Thompson testified his memory that the parties' negotiation teams agreed to delete the criteria of performance evaluations from Articles 45 and 46 regarding candidates for promotion, but admitted that no documents in evidence corroborate his memory of such agreed deletion. Respondent witnesses denied that the negotiating teams agreed to delete the performance evaluations criteria from either of these Articles.

6. The Fire Chief position is not a covered member of the petitioner organization, nor is his direct supervisor, the County public safety director.

7. For the negotiations in question, the parties followed their joint custom over many years in preparing a written table/chart listing all issues being negotiated. The chart was updated from one negotiation session to the next with indications marked thereon about the status of each issue. The charts in evidence do not reflect that any of the proposals regarding Article 17 were ever tentatively agreed between the negotiating teams.

8. Both parties acknowledged at hearing their understanding and acceptance that anything they tentatively agreed during negotiations was subject to approval of the Union membership and approval by the County governing body.

9. An August 18, 2015, email message written from director Duncan to president Thompson included the following: "As I see it we have three remaining issues to agree upon...Here are our [County] positions on these items: • Article 17: Management agrees to leave the language as it is in the current agreement" and then lists two additional issues regarding employee compensation. The email also states "With the current state of the financial forecast we believe this is the best offer we make at this time."

10. The parties did not agree upon employee compensation.

11. The parties' consummated MOA in effect while negotiations were conducted does not include any agreed procedures that shall or may be invoked in the event of impasse on any negotiated subject.

12. Petitioner argued that the Duncan email constitutes an agreement of the two negotiating teams upon Article 17 and that the issue of part-time pool employees addressed by Article 17 is therefore related to employee compensation. Thompson testified the following when asked his understanding about whether the three issues in Duncan's August 18 email were "in any way linked": "No. These were – it was a notification e-mail as to, 'Here's what we have open.'"

13. Thompson testified that the reason petitioner was concerned about Article 17 is for "job security" reasons. Thompson also testified that he never communicated with Duncan to verify whether Duncan's email was offering the three issues as a "linked" or "bundled" deal in which resolution of each issue was contingent upon resolution of the others.

14. The issue status chart that the parties shared when beginning their final negotiation session on September 2, 2015, did not identify Article 17 as one upon which the parties agreed. The parties did not discuss Article 17 at that final meeting.

15. Respondent witnesses testified that Article 17 was not agreed upon by the negotiating teams, that the issues of compensation and part-time workers were "connected" only by this August 18 email, that both parties understood that the County governing body always had to ratify any actions of its negotiating team, and that by September 2 the County governing body had clearly communicated 'No' to the IAFF position on Article 17 because "We want the language changed."

16. Respondent has a long history of utilizing volunteer "reserve" forces and employs a chief of reserves who is responsible for their training. Division chief Cox testified that "We've always used them" and fire chief Leake clarified that reservists play a "supplemental role" and "we never used them in a role where they're going to put our people in danger or themselves in danger, because they're not fully trained yet."

17. Respondent witnesses testified that the imposed contract's changes to Article 21 regarding vacations would have zero substantive effect; that the change simply clarified existing policy and the respondent's sole intent was to improve some confusing Article 21 terminology of the expiring MOA without actually changing any application of the policy in practice. Petitioner argued and its witness testified that the new language was indeed a substantive change, that fewer firefighters would be able to take their vacations at the same time under this new imposed provision.

Discussion and Conclusions of Law

1. K.S.A. 75-4333(b)(1) specifies that it shall be a prohibited practice for a public employer "willfully" to "[i]nterfere, restrain or coerce public employees in the exercise of rights granted in K.S.A. 75-4324". K.S.A. 75-4324 delineates rights of public employees to "form, join and participate in the activities of employee organizations of their own choosing, for the purpose of meeting and conferring with public employers or their designated representatives with respect to grievances and conditions of employment."

2. K.S.A. 75-4333(b)(5) specifies that it shall be a prohibited practice for a public employer "willfully" to "[r]efuse to meet and confer in good faith with representatives of recognized employee organizations as required in K.S.A. 75-4327".

3. K.S.A. 75-4327(b) specifies that a public employer "shall meet and confer in good faith with such employee organization in the determination of conditions of employment of the public employees..." and K.S.A. 75-4322(t) defines "conditions of employment" as "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..."

4. The Kansas Supreme Court endorsed a balancing test used by PERB to determine on a case by case basis whether a given topic of concern in employer-employee relations is a "condition of employment" for which mandatory negotiations shall be held as specified by K.S.A. 75-4327(b). *Kansas Bd. of Regents v. Pittsburg State Univ. Chapter of Kansas-Nat'l Educ. Assn.*, 233 Kan. 801, 821 (1983). The Court articulated that balancing test as: "If an item is significantly related to an express condition of employment, and if negotiating the item will not unduly interfere with management rights reserved to the employer by law, then the item is mandatorily negotiable." *Kansas Board of Regents* at 816.

5. This balancing test has been refined in subsequent rulings by PERB to specify the analysis of these factors:

    a. A subject is mandatorily negotiable only if it is significantly related to express conditions of employment.
    b. A subject is not mandatorily negotiable if it has been completely preempted by statute or constitution.
    c. A subject that is significantly related to an express condition of employment is mandatorily negotiable if it is a matter on which a negotiated agreement would not significantly interfere with

the exercise of inherent managerial prerogatives. *E.g.*, *IAFF Local No. 179 v. City of Hutchinson, Kansas, Fire Dept.*, PERB Case No. 75-CAE-1-2011, p.20 (May 4, 2012).

6. The management rights involved in this balancing test, often referred to in relevant case law as "inherent managerial prerogatives", finds its basis in K.S.A. 75-4326, which specifies: "Nothing in this act is intended to circumscribe or modify the existing right of a public employer to: (a) Direct the work of its employees...(d) Maintain the efficiency of governmental operation...(f) Take actions as may be necessary to carry out the mission of the agency in emergencies; and, (g) Determine the methods, means and personnel by which operations are to be carried on."

7. Each of the issues in the immediate proceeding involve this core question of whether mandatory negotiations, *i.e.*, the obligation to "meet and confer" in accord with K.S.A. 75-4327(b), were conducted as required by law. Two of the issues in this case – vacation allowances and wearing apparel – are express conditions of employment under PEERA and are the first two that this initial order will address.

8. Wearing apparel, commonly referred by the parties as issues involving employee uniforms, was the subject of meet and confer negotiation about belts and t-shirt designs. There is no factual dispute that the omission of an agreed belt description from the imposed contract was purely inadvertent. The parties agreed on a type of acceptable belt and respondent simply forgot to insert its reference into the imposed contract. No motive other than innocent oversight is in the factual record. For all prohibited practice complaints under K.S.A. 75-4333(b), the law requires substantiation that the acts were done "willfully". Proof of the willfulness of any alleged misconduct under this statute is an essential element for finding culpability. In the context of PEERA-prohibited labor practices, willfulness has been interpreted to mean "Proof of anti-union animus or of a specific intent to violate an employee's, employees' or the recognized employee organization's rights..." *Fraternal Order of Police Lodge No. 40 v. Unified Government of Wyandotte County/Kansas City*, 75-CAE-3-2006 and 75-CAE-10-2006, p. 39 (PERB, April 9, 2009). Given the absence of a culpable belt motive by respondent, this omission from the imposed contract is not a prohibited practice.

9. T-shirt logos were agreed upon by the parties during meet and confer sessions. The dispute is simply whether respondent acted in bad faith by failing to insert an appendix to Article 31 into the imposed contract that would display the approved examples of t-shirt logos. The preponderance of evidence establishes that the parties did not agree to insert such an appendix. Because no such agreement was reached on the inclusion of an appendix, respondent's omission of it cannot be held to represent bad faith bargaining on this point.

10. The vacation policy of Article 21 was negotiated during meet and confer sessions. Respondent admitted that it agreed to keep this Article unchanged, yet it nevertheless unilaterally changed this language under the rationale that the new imposed terms represent "no practical effect" amounting to any change. To the contrary, the ALJ finds that the imposed contract changes the number "3" to a "2" and, given no other alteration of this MOA section, the new numeral must necessarily document a change to policy. To hold otherwise would strip concrete terms of any intrinsic meaning. The plain language of the MOA versus imposed contract cannot be ignored; "two" is different from "three", so respondent's imposed alteration of Article 21 is a change in policy on its face.

11. However, while "vacation allowances" are an express condition of employment, we must look closer at the particular policy change that was imposed. The numerical term that respondent changed regards the number of employees that may request and receive *simultaneous* vacation leave dates. No worker's vacation allowance is forfeited or reduced by virtue of respondent's imposed terminology and no evidence in the record suggests that diminution of the vacation benefit itself could happen or that any

given worker, or any significant number of workers, would be inconvenienced by a need to pick alternate dates. If too many workers seek the same week for vacation, some of them will simply need to select from 51 other weeks in which to claim their vacation allowances. This is a scheduling issue, not a vacation entitlement issue. Thus, the issues are distinct, but the ALJ nevertheless finds that *vacation scheduling* is significantly related to *vacation allowances*.

12. Because vacation *scheduling* is not an express condition of employment and therefore not subject to mandatory negotiation *per se*, the next relevant analysis is whether subjecting it to mandatory negotiation would significantly interfere with the exercise of an inherent managerial prerogative. These management rights are protected by PEERA, wherein it prohibits PERB from circumscribing or modifying the right of any public employer to: direct the work of its employees; maintain the efficiency of governmental operation; take actions as may be necessary to carry out the mission of the agency in emergencies; and, determine the methods, means and personnel by which operations are to be carried on. K.S.A. 75-4326(a), (d), (f) and (g).

13. Neither party articulated significant facts which underlie their respective positions on vacation scheduling. Petitioner presented no testimony that gave any impact whatsoever to the imposed policy change, resting its objection solely upon the textual diversion from what the parties had *tentatively* agreed – zero impact was articulated that might stem from allowing one fewer worker within each shift to vacation at the same time as others within his/her shift are vacationing. Respondent voiced its willingness, but only if so ordered by PERB, to revert back to the Article 21 language of the MOA – an admission that corroborates the County's position that the implementation of the change would merely rephrase existing policy. The ALJ finds that vacation scheduling is an inherent managerial prerogative because it involves the direction of employees, efficient staffing levels, sufficient staffing for emergencies, and the control of the County's methods, means and personnel. Even though the particular change from "3" to "2" may have no consequence other than inconvenience for a very small number of workers (perhaps none), it regards a type of management prerogative and duty – *i.e.*, assuring proper and efficient staffing levels – for which mandatory negotiation is likely to significantly interfere at some point. The public safety role of these parties is critical, thus making adequate staffing around vacations a potentially weak period of public protection and elevating the justification for strong managerial rights in this regard.

14. Another reason for ruling that Article 21 of the imposed contract was not a PEERA-prohibited practice is the absence of "willfulness" on the part of the County. The record is devoid of any anti-union motive by the County in changing this Article's reference of "3" bargaining unit members to "2". Notwithstanding the ALJ's finding that the plain meaning of the Article was changed, no facts suggest that the practical application of this policy has been altered. Respondent repeatedly testified of its innocent and neutral intent. Petitioner presented no evidence that the County's vacation scheduling practices have changed since the unilaterally imposed contract went into effect. Moreover, the imposed contract still requires the County to "maintain three (3) vacation calendars per shift" and it is illogical for a vacation calendar to exist for workers who cannot use it. Petitioner has submitted no evidence of anti-union animus and the ALJ certainly finds none within a policy change that has no proven consequence.

15. The remaining issues of performance evaluations in Articles 45B and 46, the pool of part-time workers in Article 17, and the volunteer and reserve forces in new Article 17A are all topics that are not express conditions of employment listed in K.S.A. 75-4322(t).

16. As noted by the parties, previous case law has addressed whether the processes for promotion within a governmental entity are deemed "conditions of employment". Petitioner contends that respondent's *process* for considering the employee performance evaluations of candidates is a "condition of employment" for which negotiation of Articles 45B and 46 were mandatory.

17. Both *Kansas Board of Regents* and *IAFF Local No. 179, supra,* utilized the PERB balancing test to decide conditions of employment. In the facts of the PERB decision, the employer's fitness for duty examination was deemed significantly related to wages and the employer's management rights were found not sufficiently infringed to preclude mandatory bargaining of the fitness for duty exam. *IAFF Local No. 179* at 27. In the Supreme Court's ruling in *Kansas Board of Regents, supra*, the employer's promotional process was one of the material issues in the case. In *Regents*, the Court endorsed PERB's balancing test, also concluded that the promotional process was mandatorily negotiable, but did not find that promotional procedures in *all* employment settings governed by PEERA will *always* be a condition of employment *per se*. *Kansas Bd. of Regents,* 233 Kan. at 826. In explaining what parts of a promotions process are mandatorily negotiable, the Court held:

> [W]e agree with PERB that the right to determine that a promotion is in order is a management prerogative, reserved to management by K.S.A. 75–4326(b). The criteria, procedures, or methods by which candidates for promotion are identified, however, are items of immense interest to faculty, and not only have an effect upon salary but upon the motivation of the individual teaching employee. We agree with PERB that this limited portion of the Promotions item is mandatorily negotiable. *Id.*

18. Is there an express condition of employment in K.S.A. 75-4322(t) to which performance evaluations are significantly related? Because such evaluations can affect continued employment, the ALJ finds that performance evaluations here are just as significantly related to "salaries and wages" as PERB held that the fitness for duty standards were in *IAFF Local No. 179*. So, the first stage of the balancing test is satisfied under our immediate facts.

19. Regarding the next part of the balancing test, there is no identified statutory or constitutional preemption regarding performance evaluations. Some evidence about respondent's questions during negotiations suggests than a performance evaluation "score" could violate statutory confidentiality provisions regarding personnel records to which an employee may be entitled. However, based on the preponderance of evidence in the record, the ALJ finds that the performance evaluation "score" referenced in the imposed Articles 45A and 46 are likely scores determined and assigned by persons on the promotions board, *not* that they were scores directly copied out of any candidates' personnel file. Moreover, the jurisdiction of this tribunal to rule upon matters of confidentiality law is questionable, but fortunately the immediate issue is more basic. The issue is whether federal law prevents the parties from negotiating the subject. *See, IAFF Local No. 179* at 14. Whether the precise data contained in a given performance evaluation is entitled to confidentiality is distinct from the parties' ability to negotiate the general subject of performance evaluations. Finding no preemption of the negotiability of this topic, this part of the PERB balancing test is also satisfied.

20. Given its express relevancy to promotion processes, the Supreme Court's ruling in *Regents* is controlling under our immediate facts. The Court declared that promotions "criteria" is a *process* matter that *is* a mandatory topic of negotiations. *Kansas Board of Regents* at 826. Performance evaluations have clearly been an historically utilized criteria agreed between these parties for purposes of promotions. The record is likewise clear that petitioner now wishes to change that tradition. This topic was in fact negotiated by the parties and the preponderance of evidence establishes that the parties did not agree upon it.

21. There was yet another part to petitioner's *promotional process* argument. Petitioner complains that respondent reneged on its *tentative* agreement to insert into Articles 45B and 46 a requirement for the fire chief – only in cases where he might disagree with the promotions board – to justify his reasons to the public safety director. The ALJ finds that any such fire chief dissent report is not itself a promotions "criteria". The fire chief's dissenting opinion may be *related* to enumerated promotions criteria or it may

not, and this assumes he would ever dissent in the first place. Nor does the ALJ find that any such fire chief dissent is part of the "methods by which candidates for promotion are identified" because it would only constitute the fire chief's impressions of candidates that *have already been identified* through the use of negotiated criteria. Thus, in effect, the petitioner argues that negotiation of this potential fire chief duty should be mandatory because it is related to something that is related to a condition of employment. The strained chain of logic exposes the insignificant relation to an express condition, but additionally, the proposed policy would regard duties of officials who are not MOA-covered employees, would regard the interplay between upper management officers, and would regard management's internal discussion of the personnel by which operations are to be carried on – all being inherent managerial prerogatives that this policy would interfere with. In short, the issue is not a mandated subject of bargaining.

22. The remaining negotiation issues in dispute are the imposed-contract's Article 17 and 17A provisions regarding part-time firefighters and volunteer/reserve firefighters. Turning first to 17A, on its face the issue is not an express condition of employment listed under K.S.A. 75-4322(t). Petitioner's testimony asserted that it "changes how we deploy and how we train". No evidence suggests that it would alter the petitioner's hours of work – which, since the ALJ is left to speculate which listed condition the volunteers might relate to, is probably the closest express condition. Any closeness of that attempted logical connection is exceptionally feeble. The petitioner's explicit rationale refers not to conditions of covered *employee* work, but rather to the *management* prerogatives of conducting training and deployment. Moreover, no evidence establishes that these imposed contract terms change anything. Petitioner admitted that volunteers have never been allowed to do the Union members' work and respondent's unrefuted testimony was that volunteers have "always" been utilized and always in a "supplemental role". Thus, the issue is not significantly related to an express condition, it would significantly interfere with inherent management rights, and is not an item for which negotiations are mandatory.

23. The analysis of the imposed Article 17 issue of part-time workers is similar to that regarding volunteers. Part-time workers are not members of petitioner's bargaining unit. Part-time employees are not an express condition of employment under K.S.A. 75-4322(t). Petitioner's express purpose for negotiating the topic of part-time workers was "job security". To find that part-time workers are significantly related to an express condition, again the ALJ was given no basis other than to speculate *which* express condition. Perhaps the "job security" reason alludes to a relationship to salaries or hours of work. As analyzed *supra* in applying *IAFF Local No. 179* and *Kansas Board of Regents,* fitness for duty exams and performance evaluations can directly affect a given current employee's salary or work hours. How does the topic of part-time employees represent at least this same significance of relationship with the same express conditions? No facts on record establish that there is any such relationship posed by the existence of a part-time pool. The County could reduce existing salaries or layoff existing workers in the bargaining unit without any regard whatsoever to the part-time pool clause of their contract. Neither the MOA or the imposed contract places any parameters on the quantity of part-timers in the pool. If there is any relationship between the existence of a pool or the quantity of pool workers versus the likelihood of layoffs or wage cuts to existing union members, it was wholly unproven by petitioner. If the petitioner wishes the existence of any such pool to be declared significantly related to an express condition of employment as a matter of law, that wish is not supportable by legal analysis alone. A "condition of employment" is necessarily an expression of terms that are applied to existing PEERA-covered workers in the bargaining unit. Nothing regarding the respondent's business relationship with non-PEERA part-time workers is a "condition of employment" that is applied to the petitioner's members. Rather, respondent's maintenance of a part-time pool is quite clearly the respondent's prudent exercise of its rights and obligations under K.S.A. 75-4326(a), (d), (f) and (g). The issue is not one for which negotiations are mandatory under PEERA.

24. Even if a part-time employee pool were a mandatory negotiation issue, the preponderance of evidence establishes that the parties did not agree on this issue. Nor did either party request that impasse proceedings be initiated for this issue.

25. The parties had no impasse procedures included within their MOA, so the relevant PEERA requirements apply. Consequently, due to its absence from the MOA, the parties did not have any policy defining the conditions under which an impasse exists. Per the ALJ's analysis *supra*, petitioner was at liberty to invoke impasse proceedings pursuant to K.S.A. 75-4332 on any of the following mandatory topics that were negotiated: wearing apparel, to the extent that the parties did not agree to insert an MOA appendix to Article 31; performance evaluations, to the extent of their use in the parties' promotions process as a promotions criteria within MOA Articles 45B and 46; and, salaries and wages. Yet, the parties notified PERB of an impasse only on the topic of compensation – no other topic.

26. Following all due impasse procedures specified by PEERA, the County imposed its unilateral contract pursuant to the authority of K.S.A. 75-4332(f)(4) as being "such action as it deems to be in the public interest, including the interest of the public employees involved." Binding precedent upon this immediate tribunal for interpreting the scope of this authority was cited by petitioner: "[Following impasse procedures]...the employer may take unilateral action on the subjects upon which agreement could not be reached." *Kansas Assn. of Public Employees v. State of Kansas*, 75-CAE-12&13-1991, p.29 (PERB February 10, 1992). Accordingly, the respondent in the immediate case took unilateral action on the subject of compensation for which agreement was not reached through the impasse proceedings. Thus, the ALJ finds that petitioner reads this *KAPE* holding too broadly when inferring that even a *tentatively* agreed topic which is *not mandatorily negotiable* is one that respondent has forfeited its rights under K.S.A. 75-4326 and K.S.A. 75-4332(f)(4). This *KAPE* holding does not specify that employers may take unilateral action *only* upon topics that have exhausted impasse proceedings yet remain at impasse.

27. Due to petitioner's failure to file with PERB to initiate impasse proceedings on the Article 31 appendix and the Article 45B and 46 performance evaluations, the ALJ finds that respondent's imposed terms (or lack thereof) on these issues was within its scope of authority under K.S.A. 75-4332(f)(4) and therefore not a violation of its duty to meet and confer in good faith in accord with K.S.A. 75-4333(b). Given the absence of any agreed impasse procedures between the parties, the law requires a formal declaration of impasse to PERB and petitioner did not satisfy this statutory prerequisite. The plain text and scope of an employer's authority under K.S.A. 75-4332(f)(4) is quite broadly stated and makes no inference that unilateral action is precluded for mandatory topics that were negotiated, that were not agreed upon, but for which impasse was not declared to PERB.

28. All other petitioner complaints in this case regarded issues that were not subject to the mandatory meet and confer duties of K.S.A. 75-4327 and 75-4333(b). As such, all of these remainder issues are therefore deemed "permissive" subjects under PEERA. In looking to the same authority upon which petitioner improperly relied upon so heavily, we see PERB explaining that:

> A "permissive" subject of bargaining falls outside of the K.S.A. 75-4322(t) definition of "conditions of employment." The parties may bargain by mutual agreement on a permissive subject, but neither side may insist on bargaining to the point of impasse. *KAPE v. State*, 75-CAE-12&13-1991, p.28 (PERB February 10, 1992).

By precluding impasse on permissive topics, the law as properly upheld by PERB necessarily relegates permissive topics to the realm of inherent managerial rights. The County could have imposed its lawful wisdom at any time is wished regarding vacation scheduling, part-time employees, volunteer workers, and fire chief reports to his immediate supervisor.

Order

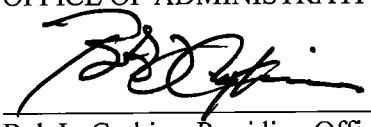
Finding no violation of K.S.A. 75-4333(b)(1) and (b)(5) on the part of the respondent, the ALJ hereby declares those claims lost and they are dismissed.

Right of Review

This is an Initial Order issued pursuant to K.S.A. 77-526 which becomes a final order unless reviewed in accordance with K.S.A. 77-527.

The petition for review, stating the basis for the requested review, must be filed with the Public Employee Relations Board, 401 SW Topeka Blvd., Topeka, Kansas 66603 within 15 days after service of this order.

OFFICE OF ADMINISTRATIVE HEARINGS



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CERTIFICATE OF SERVICE

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