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## Technical Bulletins: Education Professional Negotiations Act: A Summary

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## technical bulletin

Municipal Technical Advisory Service  
Institute for Public Service, The University of Tennessee  
In cooperation with the Tennessee Municipal League

April 20, 1978

### EDUCATION PROFESSIONAL NEGOTIATIONS ACT: A SUMMARY

The recently enacted Public Chapter 570 provides a framework for collective bargaining between school boards and professional employee organizations. This chapter should be studied carefully because it sets out specific procedures that must be followed. The following summary attempts to answer some major questions about the act.

**WHAT EMPLOYEES ARE COVERED?** The act applies only to "professional" employees--those in positions that require certificates issued by the state department of education.

**WHAT EMPLOYEE ORGANIZATIONS ARE INCLUDED?** The act applies to any organization that meets these two conditions: 1) membership is open to professional employees, and 2) one purpose of the organization is to deal with local school boards regarding wages, hours or working conditions.

**WHO MAY NEGOTIATE FOR THE SCHOOL BOARD?** To represent it in its dealings with the employee organization, the school board may select the superintendent, any board member, or certain professional employees certified by the board to represent it.

**WHICH PROFESSIONAL EMPLOYEES MAY BE CERTIFIED TO REPRESENT THE BOARD IN NEGOTIATIONS?** Employees who devote a majority of their time to the system-wide area(s) of professional personnel management, fiscal affairs, or general management may be certified as management personnel. They must be selected by majority vote of the board.

**WHEN MAY MANAGEMENT PERSONNEL BE SELECTED?** The school board must certify the management personnel to the recognized employee organization during the first month following the initial recognition. Thereafter, management personnel must be certified within the first two months of the school system's fiscal year.

**IS THE BOARD REQUIRED TO CERTIFY ANY MANAGEMENT PERSONNEL?** No. The board may certify management personnel if it wants those persons to negotiate for the board, but is not required to do so.

**WHAT MEANS MAY A SCHOOL BOARD USE TO DISCOURAGE ITS EMPLOYEES FROM JOINING OR FORMING AN ORGANIZATION?** The board or its members may express opinions and arguments on the subject of employer-employee relations. Those opinions and arguments must not contain either threats of discharge or reprimand or promises of benefits. It is unlawful to discourage membership in an organization by discrimination in hiring, tenure, or other terms of employment.



HOW WILL A BOARD OF EDUCATION KNOW WHICH ORGANIZATION (IF ANY) REPRESENTS ITS EMPLOYEES? Any organization desiring recognition may circulate a petition among the professional employees. If the organization obtains the signatures of at least 30% of the professional employees, the organization may submit the petition, together with a request for recognition, to the school board between October 1 and November 1 of any year. If these conditions are met, the statute sets out the procedure for a recognition election. To be recognized, an organization must be approved by a simple majority of the professional employees voting. If an organization is approved, it must be recognized beginning the January 1 next following the election. Recognition is effective for 24 months.

WHO CONDUCTS THE RECOGNITION ELECTION? The election is conducted by a committee composed as follows: 1 member appointed by each employee organization requesting recognition plus an equal number of persons appointed by the board of education. These members select an additional person to serve as chairman.

WHO BEARS THE COST OF THE RECOGNITION ELECTION? The persons or organizations requesting the election.

WHAT SUBJECTS OR AREAS ARE TO BE NEGOTIATED? The board of education and a recognized employee organization must negotiate:

- Salaries or Wages
- Grievance Procedure
- Insurance
- Fringe Benefits (but not programs of the  
Tennessee Consolidated Retirement System)
- Working Conditions
- Leave
- Student Discipline Procedures
- Payroll Deductions

The parties may agree to discuss other terms and conditions of employment, but are not required to do so.

DOES THE SCHOOL BOARD HAVE TO NEGOTIATE WITH A RECOGNIZED EMPLOYEE ORGANIZATION IF THE BOARD DOESN'T WANT TO? Yes. The board is obligated to negotiate in good faith, and failure to do so is made unlawful by the act. If the board refuses, the employee organization is authorized to seek remedies by filing a complaint in a court of record.

DOES THE ADOPTION OF THIS LAW MEAN THAT TEACHERS CAN STRIKE IF NO AGREEMENT IS REACHED? No. Section 9(b)5 of the act prohibits strikes, and Section 10 provides penalties for employees who strike in violation of the prohibition. Remedies include injunction, loss of tenure, and dismissal of participating employees.

WHAT HAPPENS IF THE NEGOTIATING PARTIES ARE UNABLE TO REACH AN AGREEMENT? The act provides for a process of mediation, fact-finding, and advisory arbitration to assist the parties.



WHAT HAPPENS AFTER THE SCHOOL BOARD REPRESENTATIVES AND THE EMPLOYEE ORGANIZATION REACH AN AGREEMENT? The agreement must be put in writing and within 14 days presented to the entire school board and the governing authority of the employee organization for ratification or rejection. If either party rejects or modifies any part of the agreement, it is returned to the parties for further negotiation.

WHAT ABOUT SALARIES AND OTHER ITEMS THAT REQUIRE FUNDING? No part of the agreement requiring funds is binding until it is approved by the local governing body empowered to appropriate funds. If the appropriated funds are less than the negotiated amount, the board and the employee organization must re-negotiate an agreement on the funded items within the appropriated amount.

HOW LONG DOES THE NEGOTIATED AGREEMENT LAST? Within the memorandum of agreement, the parties should specify the length of its duration. The school board may not enter an agreement for a period exceeding three years. The law does not specify a minimum period.

IF AN AGREEMENT IS ENTERED INTO, AND LATER A DISPUTE ARISES OVER THE INTERPRETATION OR APPLICATION OF THAT AGREEMENT, WHAT HAPPENS THEN? It is up to the parties when they draw up the agreement to include the procedure for resolution of disputes. The parties may require final and binding arbitration of disputes.

HOW DOES THIS NEW ACT AFFECT EXISTING AGREEMENTS AND EXISTING LAWS? The act does not eliminate or modify any existing recognition between a board of education and an employee organization. The rights and responsibilities of professional employees, superintendents, and boards of education set out in Title 49 of T.C.A. are preserved without modification.

WILL THE NEW LAW REQUIRE NEGOTIATIONS AS TO SALARIES, WORKING CONDITIONS, ETC., BEFORE THE 1978-79 SCHOOL YEAR? No. By the terms of the act, no professional organization can be recognized in time to negotiate regarding the upcoming school year. The only situation where negotiations could be required earlier than Jan. 1, 1979, is in those school districts that presently have recognized an employee organization. Existing recognition and agreements are not terminated or modified by this act.

This explanation of the major provisions of the Education Professional Negotiations Act was prepared by the County Technical Assistance Service. MTAS hopes it will be helpful to you. For your information, the Center for Government Training plans a series of workshops next month across the state to explain the act in more detail. Plan to attend the one closest to you:

May 8 - Ramada Inn, Jackson  
May 9 - Howard Johnson Inn North, Nashville  
May 10 - Sheraton Campus Inn, Knoxville

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