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February 20, 2025

ATTORNEY GENERAL OPINION NO. 2025-5

Dr. Marcus Garstecki  
Barton County Community College President  
245 NE 30 Road  
Great Bend, Kansas 67530

Re: Schools—School District Employment Contracts

State Boards, Commissions, and Authorities—Public Employees  
Retirement Systems—State School Retirement System Merger into  
KPERs

Synopsis: The purpose of continuing contract law is to prevent any uncertainty or controversy regarding the status of a teacher's continued employment by treating the time between the end of a teaching contract and the beginning of the renewed contract as part of continued employment. Continuing contract law does not apply after a contract's term ends when the teacher has provided the school with proper notice of nonrenewal. After a contract ends and is not renewed, the teacher is no longer considered employed by the school. The teacher is entitled to receive all benefits from the contract but is not entitled to continued voluntary benefits like optional group life insurance. Thus, Barton County Community College is not required to withhold and remit premiums for optional group life insurance to Kansas Public Employees Retirement System after a teacher on a nine-month contract provides notice of nonrenewal of the contract and the contract's term ends. Cited herein: K.S.A. 72-2251; K.S.A. 74-4940.

\* \* \*

Dear Dr. Garstecki:

As the President of Barton County Community College, you ask whether the “continuing contract law” set forth in K.S.A. 72-2251(a) and K.S.A. 74-4940(a) applies to teachers on nine-month employment contracts who have provided timely notice that they will not renew their employment contract for the next school year.<sup>1</sup> Specifically, you ask whether a school employer must continue to collect optional group life insurance (OGLI) premiums for those employees after their contract term ends and remit that money to Kansas Public Employees Retirement System (KPERS). At the crux of your question is whether “continuing contract law” applies after a teacher gives notice of nonrenewal of their contract, meaning he or she will not be employed at the school for the next school year.

You provided an example of a typical nine-month contract between the College and its teachers, running from the beginning of a school year in August to the end of the school year in May.<sup>2</sup> Your question revolves around the summer months after the end of the contract in May, a time when a teacher would typically be on summer break, unless a notice of nonrenewal has been given. Normally, continuing contract law would require considering the teacher as employed by the school during those months, requiring the school to continue to collect funds during those months for employment benefits like OGLI. As explained below, we conclude that, when a teacher gives notice of nonrenewal, the teacher is no longer employed by the school after the contract end date and, therefore continuing contract law would no longer apply to that teacher. Thus, the school would no longer be required to collect OGLI premiums for those months after the contract ends, though nothing in the law prevents schools from doing so if they so choose.

Analysis of this issue requires statutory interpretation. Statutory interpretation begins with the text of the statute, giving words their ordinary, everyday meanings. Only when the language is ambiguous are canons of statutory construction, legislative history, or other background information employed to discern the statute’s meaning.<sup>3</sup>

Continuing contract law’s purpose “is to eliminate uncertainty and possible controversy regarding the future status of a teacher<sup>4</sup> and a school with respect to

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<sup>1</sup> This opinion limits its analysis to contracts whose term does not cover a full-calendar year, i.e., a 12-month contract. Analysis of a 12-month contract may lead to a different conclusion due to the lack of a gap between the end of one contract and the beginning of the other, thus removing the need for continuing contract law. This opinion offers no opinion on those contracts.

<sup>2</sup> Attachment A, Barton Community College Sample Primary Faculty Contract.

<sup>3</sup> *Nauheim v. City of Topeka*, 309 Kan. 145, 149-50, 432 P.3d 647 (2019).

<sup>4</sup> A “teacher is defined as “any professional employee who is required to hold a certificate to teach in any school district, and any teacher or instructor in . . . any community college.” K.S.A. 72-2251(c)(3)(A).

the teacher's continued employment."<sup>5</sup> Continuing contract law helps ensure stability in our state's schools and provides a time where teachers can seek employment and schools to search for new teachers.<sup>6</sup>

As relevant here, K.S.A. 77-2251 and K.S.A. 74-4940 set forth the parameters of continuing contract law. K.S.A. 72-2251(a) explains that teacher employment contracts are "deemed to continue for the next succeeding school year unless written notice of termination or nonrenewal is served as provided in this subsection." "A teacher shall give written notice to a board that the teacher does not desire continuation of a contract on or before the 14th calendar day following the third Friday in May, or, if applicable, not later than 15 days after the issuance of a unilateral contract," whichever is later.<sup>7</sup> K.S.A. 74-4940(a) similarly explains that "all members in school employment who are subject to continuing contract law shall be paid their contractual compensation in not less than 12 substantially equal installments, paid once, or more often, each month." A school employer, with written authorization from the teacher, must pay the balance of the remaining compensation for the school year in one payment once the contract has been entirely fulfilled.<sup>8</sup> The school employer must deduct, report, and remit any monthly deductions and quarterly reports as the employer normally would.<sup>9</sup>

Continuing contract law no longer applies after a teacher informs the school that the teacher will not renew his or her contract to return to teach the next school year. K.S.A. 72-2251(a) explicitly says contracts are deemed to continue to the next school year *unless* a written notice of termination or nonrenewal is provided. If a teacher on a nine-month contract provides written notice that he or she will not renew the contract, the employer-employee relationship ends when the current contract ends.<sup>10</sup> Because the employment relationship is over at this point, the teacher is entitled to the benefits provided by the contract but no continuing benefits.<sup>11</sup>

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<sup>5</sup> *Krider v. Bd. of Trs. Of Coffeyville Cmty. Coll., Montgomery Cnty.*, 277 Kan. 244, 246-47, 83 P.3d 177 (2004) (quoting *In re Due Process Hearing of McReynolds*, 273 Kan. 514, Syl. ¶ 1, 44 P.3d 391 (2002)).

<sup>6</sup> *Id.* at 247.

<sup>7</sup> K.S.A. 72-2251(a).

<sup>8</sup> K.S.A. 77-4940(b).

<sup>9</sup> K.S.A. 77-4940(b).

<sup>10</sup> See *Thompson v. Unified Sch. Dist. No. 259, Wichita*, 16 Kan. App. 2d 42, 45, 819 P.2d 1236 (1991) ("As the trial judge noted, nonrenewal of a contract terminates the legal relationship between the contracting parties, whereas a lay-off does not necessarily mean cessation of the employment contract.")

<sup>11</sup> In *McMillen v. U.S.D. No. 380, Marshall Cnty.*, 253 Kan. 259, 855 P.2d 896 (1993), as it applied to a school district nonrenewing a contract for a tenured teacher, the Kansas Supreme Court explained benefits end with the termination of the contract. See *id.* at 269 ("When all of the applicable statutes are read together in their entirety, it appears clear the legislature intended the contract to terminate at the end of the contract year if appropriate notice of intent to nonrenew was given, subject only to the constitutional right . . . to a minimal pretermination hearing.").

In the College's sample employment contract, Section 8 provides that, if the teacher decides not to renew employment with the College, the teacher "will be paid all compensation due to them on the next available pay day, following their last day worked."<sup>12</sup> Under the contract, employment thus ends on the last day of the contract, and all remaining compensation is paid out on the next scheduled pay day.

Because employment and employment benefits end on the last day of employment, a teacher who provides notice of nonrenewal is not entitled to continue to receive OGLI after his or her employment ends. As a result, after a school pays out the remaining benefits earned under the contract, as required by statute, the contract terms are fulfilled. The school is not required to withhold premiums to continue OGLI coverage for the time after the nonrenewed nine-month employment contract ends. Nor would the school be required to remit premiums to KPERS for that time.

With that being said, that does not mean OGLI coverage must necessarily stop when employment ends. As both the College and KPERS acknowledge, a teacher can continue his or her OGLI coverage after the contract term ends. On its website, KPERS explains the situations and the method in which an employee can continue coverage after employment.<sup>13</sup> The major difference after employment ends is the requirement that the teacher alone must make payments to KPERS, rather than the school withholding money from the teacher's paycheck and remitting that money to KPERS each month. Additionally, while not required, nothing prevents a school from facilitating this continuation of coverage by voluntarily collecting OGLI premiums from the remaining compensation and remitting those funds to KPERS on behalf of teachers who have provided their notice of nonrenewal. But that action is discretionary, rather than mandatory.

The principal purpose of continuing contract law is to "eliminate uncertainty and possible controversy regarding the future status of a teacher and a school with respect to the teacher's continued employment."<sup>14</sup> It does not operate to transform a nine-month contract into a twelve-month contract when that teacher has provided notice that he or she will not renew the contract. And it does not require a school to continue to withhold and remit OGLI premiums after the teacher's employment has ended, though nothing would have prevented the College from doing so if it chose.

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<sup>12</sup> See Attachment A.

<sup>13</sup> Continuing Coverage, KPERS Optional Life Insurance Employer Manual, <https://perma.cc/4FNH-L74E> (last visited February 20, 2025); Optional Group Life Insurance Continuation, KPERS, <https://perma.cc/2NR8-5H89> (last visited February 20, 2025).

<sup>14</sup> *Ottawa Educ. Ass'n v. Unified Sch. Dist. No. 290*, 233 Kan. 865, 869, 666 P.2d 680 (1983).

Sincerely,

/s/ Kris W. Kobach

Kris W. Kobach  
Attorney General

/s/ Ryan J. Ott

Ryan J. Ott  
Assistant Solicitor General

**BARTON COMMUNITY COLLEGE**  
**Great Bend, Kansas 67530**  
**PRIMARY FACULTY CONTRACT**

THIS CONTRACT is offered this and made and entered into effective on the date returned shown below, by and between Barton Community College, and [REDACTED] (Faculty Member).

1. **EMPLOYMENT.** The College hereby employs and the Faculty Member hereby accepts employment for the period beginning **August 12, 2024** and ending on **May 9, 2025** to perform the following instructional services:

Position:	FT/PT:	Credit/Contact Hours:
[REDACTED]	<b>Full Time</b>	<b>30 Credit Hours</b>
Release Time (RT):	RT Credit or Contact Hours	RT Responsibilities:
<b>No</b>	Per Contract Year:	

Faculty will not be expected to be on campus during the holiday break from **12/16/2024** to **1/1/2025**.

2. **COMPENSATION.** For the above services, the College agrees to pay the Faculty Member the sum of [REDACTED] payable in **twelve (12)** monthly payments on or before the 27<sup>th</sup> day of each month. The compensation in this Contract is subject to the provisions of paragraphs 3 and 4. In the event this Contract is terminated before the ending date set forth above, a prorated adjustment of salary shall be made on the basis of actual days served.
3. **SERVICES, RULES, AND REGULATIONS.** The Faculty Member acknowledges by their signature below that he/she has read and agrees to perform to the best of their abilities the duties and services as prescribed in their current job description (accessible electronically on the T Drive in the HRJob Descriptions folder) as set forth by the President. The employee further agrees to abide by all applicable State and Federal laws in addition to all regulations, and policies of the College and its authorized representatives, all of which are incorporated herein by reference and made part of this Contract.
4. **AS A LEARNING ORGANIZATION,** the College expects its employees to be actively engaged in learning and improving their skills and knowledge. Accordingly, all faculty are expected to participate in mandatory as well as voluntary training and educational experiences as a condition of their employment. Acceptance of employment indicates willingness on the part of the employee to participate in planned training and learning activities.
5. **APPLICABLE LAW.** This Contract shall be governed by the law of the State of Kansas. This Contract is subject to the terms and provisions of the Kansas Cash Basis Law and Amendments and Supplements thereto and to all other State and Federal laws.
6. **EFFECTIVE DATE.** This Contract shall be null and void if all copies are not signed by the duly authorized representative of the College and by the Faculty Member and returned to the College on or before **5/15/2024**. If returned, this Contract shall be effective on the date returned shown below.
7. **OTHER.** New faculty members are expected to participate in a special orientation program, held for them each fall during the week prior to the return of other faculty to campus. New faculty who begin anytime during the year, are expected to participate in the orientation program the first time it is offered. Contract compensation will be prorated to pay the new faculty member for the time they participate in the orientation program.

8. **TERMINATION.** In accordance with K.S.A. 72-2251, the terms of a contract may be changed at any time by mutual consent of both a Faculty Member (non-tenured or tenured) and the College President, or his or her assigned representative, acting on behalf of the Board.

The President, or his or her assigned representative, may terminate the contract of a non-tenured Faculty Member at any time. Termination of a tenured Faculty Member's contract requires Board approval. Every employee that leaves, the service of the college, will be paid all compensation due to them on the next available pay day, following their last day worked.

In the event this Contract is terminated by the Faculty Member before the ending date set forth above, the College President, or his or her assigned representative, shall determine if said Faculty Member will be charged 10% of the Faculty Member's annual salary for early termination, same to be considered liquidated damages. These damages shall also apply in continuing contract situations where the Faculty Member has received notice of a continuing contract relationship with the College and said Faculty Member fails to give notice terminating the ongoing employment relationship pursuant to the requirements of K.S.A. 72-2251. The 10% liquidated damages under these facts shall be calculated by using the salary to be paid for the continuing contract period. Employee shall pay the liquidated damages within 30 days from the date said contract is terminated. If said damages are not paid within said required time period, the College shall have the right to undertake any collection remedy it deems appropriate.

IN WITNESS WHEREOF, the College President and the Faculty Member have executed this Contract.



College President







Date Returned



Date of Signature

Position No:   
FOAP:   
FOAP: 