



District Policy 1600

District Association Recognition Policy

Washington County School District (Approved 6-8-04; Revised 11-11-08)

1. PURPOSE.

The Board of Education of the Washington County School District has the authority to prescribe rules and regulations consistent with the laws of this State for the efficient administration, organization, operation and conduct of the business of the District pursuant to the authority granted in UCA §§ 53G4-402 and 53G-11-202, Utah Code Annotated 1953.

This Policy is intended to establish the rules and conditions under which the District recognizes that employees may request recognition of their bargaining agent and under which the District may withdraw recognition of that agent. It is the purpose and objective of the Board to promote a harmonious and cooperative relationship between the Board, its employees, and the Recognized Representative of its Licensed and Classified employees.

2. DEFINITIONS. As used in this Policy: (revised 11-08)

2.1. "Association" means a lawful organization (as defined by UCA § 34-32-1) of any kind comprised of Licensed or Classified Employees that exists for the purpose of discussing with District personnel grievances, labor disputes, wages, rates of pay, hours of employment, or other terms and conditions of employment.

2.2. "Population List" is a list of eligible employees, pursuant with the terms of this policy, to participate in an election held under this policy.

2.3. "Board" means the Board of Education of the Washington County School District.

2.4. "Classified Employee" means all non-temporary persons employed by the Board on the classified employees' salary schedule whose employment status is documented as career or provisional on contracts established for 20 hours per week or more, but does not include interns, temporary/at-will, management, or Confidential Employees.

2.5. "Confidential Employees" are those employees who in the regular course of their employment have direct access to information related to bargaining or who act in a confidential or advisory

capacity to the Board or District Administration.

2.6. "Election (or Count) Committee" is a committee comprised of one Classified Employee (for Classified Employee counts) or one Licensed Employee (for Licensed Employee counts) selected by the applicable current Recognized Representative, and one member for each additional competing Association listed on the ballot, and an equal number of administrators appointed by the WCSD Board of Education. Classified Employees and Licensed Employees have separate Elections Committees. The administrators may not be an immediate supervisor of the representatives of the Associations. The Superintendent of the WCSD shall serve as the "Election Judge" and have final decision authority for all motions made by the Election Committee that are not resolved by a majority vote.

2.7. "Eligible Employees" includes Classified Employees (for procedures referencing Classified Employees and their Recognized Representative) or Licensed Employees (for procedures referencing Licensed Employees and their Recognized Representative) shown on the employment rolls of the District who have been employed for at least 10 days at the time a Population List is established. Licensed Employees and Classified Employees are grouped separately and shall not be combined for the purposes of any count or percentage under this policy. The term does not include those employees excluded from representation by this policy.

2.8. "Licensed Employee" means all non-temporary persons employed by the Board who are required to hold a license issued by the Utah State Office of Education, pursuant to the authority and requirements prescribed in §§ 53G-11-101 et seq. and 53E-6-102 of the Utah Code, whose status is documented as career or provisional employment (performing services half-time or more), but does not include interns, temporary/at-will, management, or Confidential Employees.

2.9. "Management Employees" are employees whose regular functions include supervising other employees and who may in the course of their employment recommend hiring or terminating employees.

2.10. "Negotiated Agreement" means one or more agreement(s) reached by negotiations with the Board and the Recognized Representative ratified and signed by the Board and the Recognized Representative.

2.11. "Negotiations" means representatives of the Board and the Recognized Representative meeting at reasonable times to confer on or discuss a variety of issues related to employment, management of Negotiated Agreements, or other issues as may be required by legal or contractual obligation.

2.12. "Notice" when required to be given by the District to Licensed Employees, means written notice posted in each building in a place normally used by Licensed Employees such as the faculty lounge or office, or to Classified Employees, written notice posted in a conspicuous place in each building or work site where Classified Employees report for duty. Notices shall, when reasonably possible, be posted at least five business days prior to the event about which the notice is given.

2.13. "Recognized Representative" is (1) the Association of Licensed Employees and (2) the Association of Classified Employees; recognized by the Board pursuant to the process established in this Policy as the exclusive representative of the employees of the respective associations for the purposes of negotiating with the Board or its representatives.

2.14. "Superintendent" means the Superintendent of the District or his designated representative(s).

3. EMPLOYEE RIGHTS.

3.1. This policy is subject to and incorporates by reference all employee rights, responsibilities, and obligations in Utah Code Annotated §§ 34-34-1 et seq., 20A-11-1401 et seq., and 34-32-1, and any other mandatory law of the State of Utah or the United States applicable to employment.

3.2. No employee shall be interfered with, intimidated, restrained, coerced, or discriminated against because of the exercise of any of the rights set forth herein.

3.3. Nothing in this policy shall preclude any employee regardless of membership or non-membership in an organization from bringing issues of public or personal concern to the attention of appropriate school or District personnel in accordance with applicable law, policy, or rule.

3.4. Management, confidential, and temporary employees and interns may join an Association, but may not appear as eligible employees on a Population List or as Association members for the purposes of representation election, (such employees may participate in the District's payroll deduction program in compliance with Chapter 32 of Title 34).

4. PETITIONS FOR RECOGNITION OF EXCLUSIVE REPRESENTATIVE AND FOR DECERTIFICATION--APPROPRIATE REPRESENTATIVE UNIT.

Any Association may petition for recognition as a Recognized Representative of Eligible Employees by filing a Petition for Recognition with the Superintendent. Eligible Employees may also petition for Decertification.

4.1. A Petition for Recognition or Decertification shall:

4.1.1. Be in writing, dated, and contain a declaration that the statements and representations contained therein are true and correct to the best of knowledge and belief of the person(s) signing the petition. The petition shall contain the title of the person(s) initiating the petition, and the nature of the organization represented, if any.

4.1.2. State the name, address, and telephone number of the petitioner and designated person authorized to receive notices of or requests for information from the District.

4.1.3. Provide evidence at the time the Petition is filed or within five days thereafter:

1) In the case of a Petition for Recognition: showing the signatures, printed name, and duty location of at least 30 percent of the Eligible Employees desiring to have that organization designated as their Recognized Representative; or

2) In the case of a Petition for Decertification: showing the signatures, printed name, and duty location of at least 30 percent of the Eligible Employees desiring not to be represented by the Recognized Representative.

4.1.4. Contain a statement describing the Association's or the Eligible Employees' request.

4.1.5. Contain a statement affirming that all signatures were collected within 90 days preceding the date the Petition was filed with the Superintendent.

4.1.6. Any Eligible Employee or Association that files a Petition for Recognition or Decertification shall at the same time provide the District with a \$500 filing fee to help offset the costs of postage and operations in conducting an election. The filing fee shall be deposited to a special account to cover the District's cost of conducting an election under this policy. The filing fee is waived whenever the amount in the special account is or exceeds \$1,000 except for Associations or person that have not paid a filing fee within three years prior to the date the petition was filed. The filing fee will be waived for any person or group filing a petition that signs an affidavit of impecuniosity. The affidavit shall be substantially in the form required by § 20A-9-201, Utah Code Annotated 1953, signed under oath, and contain a statement of reasons that the person or group cannot pay the filing fee. (revised 11-08)

4.2. A Petition for Decertification may also be accompanied by a Petition for Recognition of an Association not subject to section 4.4. (election bar)

4.3. District records used to process payroll during the month of May preceding the year in which an election is requested will be used to verify the eligibility of persons whose names appear on a petition as Eligible Employees.

4.4. Petitions for Recognition must contain a disclaimer from the petitioning Association waiving the right and prohibiting it from reasserting a claim of employee representation and from petitioning to be recognized as the exclusive bargaining agent and representative for the Licensed or Classified Employees for a period of time of not less than 36 months from the date of filing the original petition, if the petitioner is not successful in becoming the Exclusive Representative. The 36-month election bar provided for in this subsection is effective only after a representation designation has been conducted under this policy.

4.5. The information, including the name of the petitioner, submitted as verification hereunder, is public information. The signatures in support of a Petition are confidential and may not be disclosed to any person, other than the Superintendent or such persons as the Superintendent may determine necessary to verify the accuracy of the petition and information provided.

4.6. If the evidence, filing fee, and information required to be in any Petition is not timely submitted, the Superintendent may dismiss the Petition.

4.7. Petitions for recognition of an Association as the Recognized Representative must be filed with the Superintendent by a representative of the Association. Petitions for Decertification may be filed by any eligible employee of the District.

4.8. More than one petition for Recognition or Decertification may be filed at one time. Employees who sign more than one petition for recognition or more than one petition for decertification shall not be counted.

4.9. Petitions for Recognition or Decertification must be filed on or before June 30th preceding the school year for which recognition is requested or decertification is to be determined . Petitions must have been signed within 90 days preceding the date filed with the Superintendent. The Recognized Representative is deemed to have filed for Recognition based on its status as Recognized

Representative.

5. NOTICE AND HEARING ON PETITION.

5.1. Upon receipt and review of a Petition for Recognition or for Decertification, the Superintendent may order a representation election held. If the Superintendent determines that the petition is sufficient to grant exclusive representation status to the petitioning Association or decertification of an existing Association (by a clear majority of eligible signatures on the petition), the petition may be placed on the Board's agenda for action at either the next regularly scheduled Board Meeting or a following meeting. The Board may determine that the evidence presented for recognition of the petitioners is satisfactory and grant exclusive representation status to the petitioning Association or grant decertification. If the Board determines that a reasonable doubt exists as to the majority status of a petitioning Association or Eligible Employee, the Board may order a representation election held. If the Superintendent or Board orders a representation or decertification election to be held, the Superintendent shall determine the names of the Associations to appear on the ballot, the issues to be decided, the form of the ballot, the rules governing the election, and the date, time and place of the election. The Superintendent will provide a minimum 30-day notice of the election. Elections will normally be conducted on the first business day on or after November 1st. To avoid undue disruption to the educational environment within the District, the Board will not authorize a representation election held more often than once every three years. (revised 11-08)

6. AUTHORITY OF BOARD, ELECTION AND BALLOTING PROCEDURE.

6.1. If the Board orders a representation or decertification election to be held as described in paragraph 5, the District will present a current Population List of eligible Licensed Employees (for a Licensed Recognized Representative election) or Classified (for a Classified Recognized Representative election) Employees using District records in effect on August 31st following approval of a representation election to the Associations by September 15th. Only individuals identified on the Population List will be eligible to participate in the election. (revised 11-08)

6.2. Participating Associations will have the opportunity to present eligibility issue objections regarding the Population List at an Election Committee meeting held by the District no sooner than five business days after the issuance of the Population List. Using Population List eligibility requirements, the Superintendent or his/her designee will have final decision authority regarding objections to the Population List. Post Population List review challenges are not permitted, except in the case where the party benefiting from its application clearly knew of the ineligibility or eligibility of a member of the Population List and suppressed the facts. Once the Population List has been approved by the Superintendent, additions or removals will not be made and the Population List will be used by the Election Committee to conduct the election. (revised 11-08)

6.3. If an election is ordered to be held, the Superintendent shall cause secret ballots to be printed. The ballots shall provide for an affirmative vote for representation and for the option of no representation. The proposition receiving at least 50% plus 1 of the total number of Eligible Employees identified on the Population List shall prevail. If more than two Associations' names appear on the ballot, the ballot shall permit all Eligible Employees to vote for or against representation by an Association and to vote for the Association he/she prefers to represent him/her. If 50% plus 1 or more of Eligible Employees identified on the Population List favor "no

representation," or if less than 50% plus 1 favor representation by an Association, no employee Association shall be recognized and the Board may conduct Negotiations with such employees or organizations as it designates, not negotiate with any employees, or conduct hearings on employee terms and conditions of employment. Only if the majority, 50% plus 1 of Eligible Employees identified on the Population List vote in favor of "representation" and two or more Associations' names appear on the ballot will the District initiate a count of votes favoring a specific Association. In such cases, ballots containing no specific vote for an Association or votes for two or more specific Associations will not be counted for purposes of determining a favored Association. (revised 11-08)

6.4. Any election under this policy shall be conducted as follows:

6.4.1. Under the direction of the Superintendent the Election Committee shall assist as necessary and monitor the ballot distribution process. At least seven days prior to an authorized election a copy of the ballot and election instructions shall be sent by U.S. Postal Service to all Eligible Employees listed on the approved Population List using the most recent address of record contained in the District payroll files. (11-08)

6.4.2. The election instructions shall contain the following information intended to guide Eligible Employees through the ballot submission process. The instruction will state: (11-08)

6.4.2.1. That the purpose of the ballot is to permit Eligible Employees to vote on the question of whether or not to be represented by (stating the name or names of the Associations) and whether or not to be represented by any organization. (revised 11-08)

6.4.2.2. That ballots must be correctly completed, placed in the ballot envelope and the ballot envelope placed in the outer envelope (clearly marked by the District with a return P.O. Box address established to collect completed ballots) on which the Eligible Employee will affix his/her signature on the front adjacent to the preprinted Eligible Employee's name. Eligible Employees are solely responsible to ensure that the outer envelope has affixed to it the correct amount of postage to ensure its delivery to the identified P.O. Box. (revised 11-08)

6.4.2.3. Voting is by secret ballot and the purpose of the two envelope system is to provide confidentiality and prevent duplicate and erroneous voting.

6.4.2.4. Any ballot or signed envelope not substantially completed in a form enabling the Election Committee to determine the person's vote and that the outer envelope was signed by an Eligible Employee will not be counted. (revised 11-08)

6.4.2.5. If an Eligible Employee signs and deposits two or more Outer Envelopes, the Ballot Envelope will not be opened or counted.

6.4.2.6. The ballot in its envelope must be placed in the U.S. Postal mail system to the return P.O. Box listed on the authorized outer envelope and post marked no later than the election deadline date identified in the election instructions. (revised 11-08)

6.4.2.7. The Election Committee shall collect the ballots from the designated P.O. Box. and immediately return them to the District Office. The security key for the designated P.O. Box shall be maintained by the Superintendent. The contents of the P.O. Box will be placed in a pile in the presence of the Election Committee. All ballot envelopes will be

checked to ensure an Eligible Employee properly completed them as identified on the Population List and that the outer envelope was post marked on or before the election deadline date as identified in the election instructions. Outer envelopes not properly completed, date marked, or determined to not contain the ballot of an Eligible Employee will not be opened or counted. After verification, eligible ballot envelopes will be removed from all outer envelopes. Eligible envelopes will be placed in a pile where they will be opened and counted. (revised 11-08)

6.4.2.8. Participation in a representation election to include voting for or against Association representation will not obligate an Eligible Employee to join or refrain from joining an Association. Membership in an Association is not required to participate in a representation election. Likewise, participation in a representation election conveys no benefits of Association membership. (11-08)

6.4.3. The Superintendent shall determine the election deadline date and the time ballots must be received for tabulation. The elections committee shall verify each signature appearing on the outer envelope against the approved Population List of Eligible Employees created on or about September 15th as prepared by the Human Resource Director. The names on envelopes that cannot be verified as an Eligible Employee will not be opened. The Ballot Envelope in each eligible outer envelope will be placed in a container and opened only after all eligible ballot envelopes are received. The ballot in each ballot envelope will be removed from the envelope and counted by the Elections Committee in a manner that ensures the anonymity of each voter and the accuracy of the vote. The Elections Committee will tabulate the vote and report the election results to the Superintendent. (revised 11-08)

6.5. If fewer than 50 percent plus 1 of Eligible Employees, as identified on the Population List, cast a ballot, no employee Association shall be recognized and the Board may conduct Negotiations with such employees or organizations as it designates, not negotiate with any employees, or conduct hearings on employee terms and conditions of employment. (revised 11-08)

6.6. If at least 50% plus 1 of Eligible Employees identified on the Population List vote in favor of representation and the election includes more than two Associations requesting representation status, the Board shall grant exclusive representation status to the Association receiving the greater number of votes. If the election is a tie, the votes shall be recounted. If the election remains tied, the Board may determine by lot which Association is designated as the exclusive representative. (revised 11-08)

6.7. An election cannot be contested unless the contesting party can demonstrate by clear and convincing evidence that an election irregularity changed the result outcome of the election.

6.8. The members of the Elections Committee:

6.8.1. Shall be notified of the time and place ballots are to be distributed, collected, opened or counted. (revised 11-08)

6.8.2. Each member of the Election Committee must be present any time ballots are being distributed, collected, opened or counted. (11-08)

6.8.3. Shall count ballots using a method that is verified by at least two committee members.
(11-08)

6.8.4. May make recommendations to the Superintendent regarding whether a ballot should be counted.

6.8.5. If a recommendation is made to the Superintendent to not count a ballot, the Superintendent may base his/her decision to count or not count a ballot on any reason a ballot would be counted or not counted in a general election conducted by the State of Utah.

6.8.6. The party losing an election may request a recount if the margin of loss is less than one percent of the ballots or if the contesting party can demonstrate by clear and convincing evidence that an election irregularity changed the outcome of the election. The request must be made within three days after the results are announced. Only one recount will be conducted.

6.8.7. The Elections Committee shall rule on all issues brought to it.

6.8.8. Ballots and administrative documentation shall be retained by the District for at least one year. (11-08)

6.9. The Superintendent shall announce the results of the election.

7. PROCEDURAL RIGHTS AND OBLIGATIONS.

7.1. The Superintendent shall have the right to promulgate rules governing the activity of the Recognized Representative and any competing Association for conferring with management, the use of bulletin boards and other publicly owned facilities and soliciting membership consistent with the following:

7.2. A party to the election and its representatives or advocates may not:

7.2.1. Actively solicit votes or support from employees during their working hours or during work hours of other employees.

7.2.2. Solicit or communicate by wearing pins, distributing flyers, wearing t-shirts, or any other method during school hours if the practice interferes with the operation of the school, school activity, or School District.

7.2.3. Post flyers in or on any District location not specifically identified for such communication.

7.2.4. Use District mail, District e-mail, District employee home address lists, or other District communication systems to solicit votes or support for or against a representation election.
(revised 11-08)

7.2.5. Interfere with or obstruct campaign activities of opposing parties.

7.2.6. Solicit votes or support in or around any polling place during voting hours.

7.2.7. Act in any way that disrupts the operation of the District.

7.2.8. Come on school premises for the purpose of campaigning or soliciting members except during the 30-day period prior to an election.

7.2.9. Discuss the election issues with students during school unless the discussion is approved as an appropriate subject for discussion (such as in a civics class).

7.3. A party to the election and its representatives or advocates may, 30 days prior to any election:

7.3.1. Solicit votes or support during break, lunch, or other periods when both the soliciting and recipient employee are not actively engaged in the performance of their duties.

7.3.2. Post appropriate campaign materials on District bulletin boards that are typically used for communication to employees.

7.3.3. With prior permission of the Superintendent, use District facilities for campaign meetings or events that are not coercive, that do not occur during normal work hours, and that do not disrupt normal District operations.

7.4. The Superintendent, administrators, and the Board shall:

7.4.1. Remain neutral throughout the campaign and election process.

7.4.2. Expeditiously take reasonable steps in an attempt to resolve challenges to campaign practices or election concerns.

7.4.3. Take reasonable steps in an attempt to ensure that each party to the election is treated equally and that no party to the election is unfairly favored or disfavored.

8. RECOGNITION OF THE RECOGNIZED REPRESENTATIVE.

Any Association presently recognized as the Recognized Representative of the Classified or the Licensed Employees shall continue to be recognized until such time as it is decertified or recognition is withdrawn by the Board pursuant to this policy.

9. NOTICES.

Whenever a notice is required to be given to any Association in this Policy, the notice shall be provided by fax, mail using the United States Postal Service, or telephone call or by more than one of the foregoing methods. The fax, mail, or telephone call shall be to the Association's telephone or fax number or address as shown on the most current records of the District. If the person to whom the notice is to be given is an employee of the District, the notice may be mailed to that person's address as shown on the most current record of the District or e-mailed using one or more list serve directories. Except as otherwise provided in this Policy, notices shall be given at the earliest practical time, but in no case, except emergencies, less than three days prior to the event about which the notice is given. No notice need be given for conditions requiring an immediate action by the Board or District personnel.

10. FAILURE TO COMPLY WITH THE CONDITIONS OF THIS POLICY.

10.1. Any employee who knowingly fails to comply with the conditions of this policy shall be subject to appropriate disciplinary action in accordance with District Policy 1450.

10.2. Failure of any non-employee or Association Representative to comply with the terms and conditions of this policy will result in banning the representative from access to District facilities, grounds, and property. Pervasive disregard for this policy on the part of Association representatives will result in all non-employee or Association Representatives being banned from access to District facilities, grounds, and property.

11. CONSTRUCTION OF POLICY.

This policy requires substantial compliance by the Board and its agents. The dates and procedures are satisfied unless the failure to strictly comply substantially prejudices any party.