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# ***COLLECTIVE BARGAINING IN UTAH SCHOOLS: LABOR PAINS IN A RIGHT-TO-WORK STATE***

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## **Part 1**

# **Even a conservative state like Utah is not immune to teacher unions and their negative impact on education**

For researchers hoping to illustrate how teacher unions negatively impact public schools, Utah might seem like an unlikely source for material.

Compared to “progressive” states like New York, Illinois, Pennsylvania or California, Utah is definitely not union country.

It’s a solidly red, conservative, right-to-work state, where it’s illegal for anyone to be forced into a union or compelled to pay union fees of any sort.

Utah school districts are not legally obligated to recognize employee unions or enter into any sort of collective bargaining agreements with them.

Unlike in many other states, Utah schools are not legally bound to honor the stipulations of expired collective bargaining agreements while new agreements are being negotiated.

Utah school boards are not legally allowed to delegate final policy decisions to arbitrators, a process stipulated in many collective bargaining agreements in other states.

State law also forbids Utah school boards from entering into any sort of labor agreements that would alter the right of future boards to determine policy.<sup>1</sup>

Utah is such a non-union state that some school officials get downright testy at the suggestion that they even have teacher unions.

EAGnews recently sent a questionnaire to nine Utah school districts with teacher union collective bargaining agreements, seeking answers to several questions regarding union labor costs.

The person at the Logan City school district who returned the questionnaire wrote the following phrase nine times, in response to nine different questions: “The Logan City school district does not have a teachers union contract.”

We found that confusing, since we had just finished reviewing a Logan City document that looked and read like a thousand teacher union contracts we’ve inspected. We emailed the district superintendent, asking him to explain the confusing response, but he failed to reply.

Only later did we learn that Utah school officials prefer to call their teacher unions “associations.” Evidently they’re kind of touchy about that distinction, even though the only difference seems to be in the name.

***A lot like other states***

The fact is that some Utah school districts – generally the larger ones – choose to recognize and negotiate with teacher unions.

That means, of course, that many of the negotiated provisions in those agreements are designed to benefit and protect most teachers, sometimes at the expense of students.

“Even in this right-to-work state, there is a fairly robust union presence, for sure,” said Kenneth Grover, director of secondary education in the Salt Lake City school district. “The question (for union officials) is, do you want to come to the table and work for the best interests of kids? When it becomes about protecting employees at all costs, it’s frustrating.”

“Almost all of the polices (in union contracts) are for the best interests of teachers,” said Blake Ostler, a veteran Salt Lake City attorney who has worked with many school districts on labor issues over the years. “Sometimes it becomes about providing employment for teachers rather than focusing on the needs of students.”

How strong are teacher unions in Utah? According to Ostler, there is almost a state of “co-governance” in some school districts, with power almost equally shared between school boards and teacher unions. He attributes that fact to the outcome of a very important court case – *Alpine School District v. Ward* – in 1999.


In that case, a court ruled that Utah school boards could no longer change polices in union collective bargaining agreements without union consent, Ostler said. That gave unions a great deal of power to maintain a lot of policies that had already been written into collective bargaining agreements.<sup>2</sup>

“So in year one, they will negotiate policy A, and in year two they will negotiate policy B, and (the policies) can’t be changed unless the union agrees,” Ostler said. “Bit by bit they infringe further and further on the discretion of the board of education.”

Union political power also plays a role, because the state has a lot of teachers, and they tend to vote in large numbers in state and school board elections, according to Ostler.

“(Politicians and board members) have got to pay attention to what the teachers want,” Ostler said.

It all adds up to numerous districts dealing with strong teacher unions that have the power to impose their will, whether it’s good for students or not.



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***–Blake Ostler, attorney***

### ***Absurd contract provisions***

To measure the impact on Utah schools, EAGnews focused on nine districts that have current collective bargaining agreements with teacher unions – Salt Lake City, Granite, Davis, Rich, Carbon, Logan City, Murray, Nebo and Weber.

Unions in these districts interfere with the learning process by negotiating contract clauses that significantly increase labor costs; force districts to make personnel decisions based on teacher seniority rather than skill; and make it difficult and costly to fire bad teachers.

The evidence is abundant.

There's the absurd contract provision in the Nebo district that gives teachers 120 paid sick days per year (a full school year is about 180 days), minus the number of sick days used over the previous two years.<sup>3</sup>

There's the provision in the Salt Lake City union contract that allows ineffective teachers to remain in their classrooms, instructing their underserved students, through two lengthy "remediation" periods before administrators can attempt to fire them.<sup>4</sup>

There's the provision in the Davis union contract that says the teachers with the least seniority within a grade level or academic discipline will be the first to be transferred, regardless of their skill or effectiveness.<sup>5</sup>

On the surface, several of the nine districts we focused on take a hard stand when it comes to demanding proof of union legitimacy.

These districts have incorporated language into union contracts, claiming they will only recognize the unions as bargaining agents for teachers if they receive periodic evidence that the majority of teachers prefer union membership.

But when EAGnews asked those districts the last time they demanded and received such evidence, most hemmed and hawed and failed to offer solid answers.

The fact is that none of them push very hard to force the unions to demonstrate their legitimacy, or pressure the unions to allow teachers to vote on union representation through secret ballots. The state of Wisconsin made those type of "recertification" elections mandatory in 2011, and teachers in many districts in that state have dumped their unions.

"That's interesting," Rick Ainge, school board president in the Nebo district, told EAGnews regarding the idea of secret ballot union recertification votes. "We've never considered that before."<sup>6</sup>

### ***'All hell broke loose'***

How much do these Utah school districts have in common with other unionized schools around the nation?

Everyone knows about the recent *Vergara v. California* lawsuit, in which a judge ruled that union-negotiated teacher job protections have the effect of denying students – particularly those in schools in lower-income neighborhoods - their right to a quality public education.<sup>7</sup>

Union leaders across the nation screamed in anger over the verdict, and the fact that the judge would question the concept that all teachers are equal in skill and effectiveness.

Then there's this story from Michael Clara, a member of the Salt Lake City school board.

Clara said he became upset early in his first term when he realized that many teachers with poor evaluations were clustered in schools on his side of town, which he says is comprised largely of low-income families.

That situation probably occurred because of union negotiated bumping rights that give senior teachers preference when it comes to choice jobs at the "better" schools. It probably also has something to do with union negotiated contract provisions that make it very difficult to fire bad teachers.

If they can't get rid of them, do they just dump them on the poor side of town?

Clara said he filed a discrimination complaint with the state civil rights office, and the local teachers union came unglued at the suggestion that all teachers are not equal in skill and effectiveness.

"When I got elected, I noticed 60-70 percent of teachers in my neighborhood were rated as ineffective," Clara said. "Then at my third board meeting - when I asked why they are all in my neighborhood – all hell broke loose.

"Hundreds of teachers, including the state union president, said I had to apologize to them because I said they're ineffective. I refused. This is a problem with public education. We're never going to improve if we can't discuss data. Just because (union teachers) get offended, that's not my problem."<sup>8</sup>

Unfortunately Clara is wrong about the last part. The presence of organized labor in public schools is a problem for all of us that must eventually be tackled, while there is still something worth saving.

## **Part 2**

### **Utah teacher union contracts that drain precious education dollars stem from 'culture of entitlement'**

Between 2009 and 2012, the Granite, Utah school district cut roughly \$55 million from its general fund budget.<sup>9</sup>

Dozens of jobs were eliminated, mostly at the administrative and support staff level, leaving teachers without critical assistance. Many student services were cut or trimmed down, including a career and technical education program, alternative language courses, special reading courses and at-risk programs.

Five professional development days for teachers were cancelled. Two academic days were removed from the school calendar. Property taxes were increased to help fill the budget gap.<sup>10</sup>

“There were cuts that were felt,” Granite school board President Gayleen Gandy told EAGnews. “We felt like we had cut well past the bone and into the muscle.”

The school board had not come close to restoring the cuts it had made by the start of the 2012-13 school year.<sup>11</sup>

Yet somehow it was able to justify some very expensive perks for teachers in 2012-13, including a \$542,934 across-the-board cost-of-living raise, \$3.4 million worth of automatic, annual “step” raises, \$57,263 in extra pay for student lunch supervision, and \$335,033 in compensation for unused sick days.<sup>12</sup>

<b>2012-2013 Granite Collective Bargaining Provisions and Costs</b>	
<b>Automatic, Annual Step Raises</b>	<b>\$3.4 million</b>
<b>Cost-of-Living Raise</b>	<b>\$542,934</b>
<b>Lunch Supervision Duties</b>	<b>\$57,263</b>
<b>Unused Sick Day Payouts</b>	<b>\$335,033</b>

Those costs were all due to negotiated provisions in the collective bargaining agreement between the Granite school board and the Granite Education Association (the local teacher union).

The total of the extra costs, roughly \$4.3 million for one academic year, would have been enough to restore some of the budget cuts from previous years.

Gandy argues that teachers deserved the cost-of-living raise and other perks in 2012-13, because they sacrificed during the leanest years. She also said her district’s generous benefit package helps recruit top-notch teachers.

But a strong argument could be made that nobody should have received a raise – and teachers could have lived without some unnecessary perks – until all the previous cuts were restored, especially in areas where students were affected.

Remember, the \$4.3 million worth of perks is just a small sampling of all the extras Granite teachers received in 2012-13. The district also paid out \$50.7 million for employee health insurance premiums, \$3.5 million for retiree health insurance premiums, and roughly \$34 million toward teacher pensions. Much of that money was spent on behalf of current or retired teachers.<sup>13</sup>

Overall the Granite district spent \$79 million on benefits for instructional staff – mostly teachers – in 2012-13. A large portion of those benefits were the result of collective bargaining.<sup>14</sup>

EAGnews sent a limited number of questions to Granite and eight other Utah districts – Salt Lake City, Davis, Murray, Logan City, Nebo, Weber, Rich and Carbon – regarding union labor costs. We would have

sent more, but public schools are frequently hesitant to share information about labor costs, and often slow to do so.

But the responses we received were enough to demonstrate one undeniable fact – labor costs negotiated by teacher unions are expensive burdens for public schools, even in a “right-to-work” state like Utah.

Simply put, they siphon precious dollars that could otherwise be invested in students. That can be a real problem, particularly during lean years when choices must be made between student programs and employee perks.

“Teachers believe they are entitled to a raise, every single year,” Blake Ostler, a veteran Salt Lake City attorney who has worked on many school labor issues, told EAGnews.

When finances are extremely tight, and the unions don’t get the dollars they want at the bargaining table, they often expect something tangible in return, even if it’s bad for students.

A good example comes from the Ogden school district in the 1990s, when the school board could not justify a raise for teachers, so it agreed to cut their work days from 8 hours to 6 hours and 40 minutes.

“That was horribly detrimental to student achievement,” Brad Smith, the current superintendent of Ogden schools, told EAGnews. “The board had this feeling that, gee, we have to somehow make a concession because we can’t afford a raise. Item after item like that arises from the culture of entitlement that’s come to be expected as part of being employed by public schools.”

### ***Lots of costly contract provisions***

Lily Eskelsen Garcia, a former Utah teacher, was recently elected president of the National Education Association, the nation’s largest teacher union.

In a media interview, she said she became involved in the union because she was upset by large class sizes and low state funding for schools in Utah.

“I thought, who does this? Who does this to kids?” Eskelsen Garcia was quoted as saying.<sup>15</sup>

Utah taxpayers could ask the same question about her union. Perhaps if some Utah schools didn’t pay so much for union labor, there would be more money to hire teachers and fund school operations.

The Salt Lake City district, for example, gave teachers a one-time, one percent bonus in 2012-13, which cost just over \$1.1 million. Teachers also received \$900,000 worth of automatic, annual step raises.

The district also shelled out \$23.1 million for teacher pensions, \$7.2 million for teacher health insurance and \$367,670 toward retired teacher health insurance.<sup>16</sup>

The Salt Lake City district spent \$283,955 more from its general fund in 2012-13 than it took in, according to state records.<sup>17</sup>



The Murray City school district contributed \$320,304 to teachers' 401(k) accounts in 2012-13, on top of the more than \$4 million it paid on behalf of teachers to the state pension fund. It also paid teachers \$171,689 under the "retirement prior to age 62" provision of the teacher union contract, and \$130,370 in "extra duty" pay.<sup>18</sup>

The Murray City district also spent \$157,705 on annual step raises for teachers and \$3.4 million on health insurance premiums for teachers.<sup>19</sup> Overall it spent \$914,308 more from its general fund than it collected in 2012-13, according to state records.<sup>20</sup>

The Weber district paid teachers a combined \$219,813 in compensation for unused sick days and another \$236,090 to employees and retirees who participated in a separate "unused sick leave reimbursement program."

The district also forked over more than \$1 million to teachers through its early retirement program, gave teachers a 1.2 percent general raise that totaled \$1.6 million, paid out \$375,000 in automatic, annual raises, and paid nearly \$13,000 of the teacher union president's salary.<sup>21</sup>

The Davis school district spent \$112,877 under a negotiated union provision that calls for extra pay for teachers to perform student lunch supervision. The district also forked over \$1.6 million toward retiree health insurance, largely for retired teachers, and spent \$3.6 million on automatic annual raises for teachers.<sup>22</sup>

Davis district officials declined to provide the amount paid out for teacher health insurance coverage in 2012-13. The district spent \$1.8 million more from its general fund than it received in 2012-13, according to state records.<sup>23</sup>

The Nebo district has a contract provision that says:

*Each school faculty, in consultation with the principal, shall determine how the lunch-time supervision funds shall be distributed among those involved in lunch-time supervision.*

The result is that the district paid out \$112,762 for lunchroom supervision in 2012-13, but only \$1,375 went to members of the teacher union.<sup>24</sup> That could very well mean that the union pressed to get most teachers out of this duty, forcing the district to bring in other employees.

A lot of money could have been saved in the Davis and Nebo districts if teachers were simply assigned to lunch duty on a rotational basis, with no extra pay at all. We're pretty sure they would have survived the experience.

The Nebo district also paid teachers \$1.2 million in automatic, annual raises, forked over \$12.5 million toward teacher health insurance and \$313,965 toward retiree health insurance.<sup>25</sup>

Nebo's general fund expenditures outpaced revenues by \$3 million in 2012-13, according to state records.<sup>26</sup>

The Rich school district paid out \$84,883 in 2012-13 for a negotiated provision that calls for teachers to receive extra pay for extra duty assignments. The district also paid teachers \$38,629 for a negotiated early retirement program and \$8,667 to teachers in reimbursement for unused sick days.

The Rich district also paid out \$77,940 in health insurance premiums for teachers in 2012-13, and \$35,320 in automatic, annual raises for teachers.<sup>27</sup>

### **Part 3**

## **Automatic step raises, generous paid leave policies, drive up costs and hurt academics in Utah schools**

Many negotiated provisions of teacher union collective bargaining agreements cost public schools a lot of money.

But the loss can't always be measured by dollars alone. Some traditional contract provisions also have negative impacts on student learning.

A majority of public school districts around the nation have union contracts calling for automatic, annual "step raises" for nearly every teacher, regardless of their performance or effectiveness in the classroom.

That means teachers have little or no incentive to improve their skills and become more effective instructors, because they know their salaries will increase regardless of their performance.

That has been the case in several Utah school districts for years, although a new state law is expected to bring a degree of accountability into the teacher compensation system.

Many districts around the nation also have overly generous sick and personal day policies, which tend to encourage rampant teacher absenteeism, high substitute teacher costs, and constant learning interruptions for students.

Several school districts in Utah are plagued with such policies, despite the state's right-to-work laws that would seemingly cause public employee unions to be less powerful and less able to dictate such policies.

The most outrageous example is the Nebo school district union contract, which showers teachers with up to 120 paid sick days per year.<sup>28</sup>

### ***More money for (sometimes) nothing***

Perhaps the most troubling examples of wasteful spending through collective bargaining are the automatic, annual "step" raises traditionally awarded to most teachers in the nine Utah districts we surveyed.

These annual raises come from salary “step” charts in union collective bargaining agreements. The charts determine how much each teacher will make each year, and have traditionally been based on seniority and the number of graduate-level college credits they’ve earned.

In other words, two third-year teachers at the same school will probably get the same raise, and make the same salary, even if one is very effective in the classroom and the other is not.

The step raises tend to be very expensive for schools.

In 2012-13, here’s what eight of the nine Utah districts surveyed paid out to cover the step raises<sup>29</sup>:

<b>2012-2013 Step Raise Costs</b>	
<b>Carbon</b>	<b>\$108,000</b>
<b>Davis</b>	<b>\$3.6 million</b>
<b>Granite</b>	<b>\$3.4 million</b>
<b>Logan City</b>	<b>\$571,931</b>
<b>Nebo</b>	<b>\$1.2 million</b>
<b>Murray</b>	<b>\$157,705</b>
<b>Salt Lake City</b>	<b>\$900,000</b>
<b>Weber</b>	<b>\$375,000</b>

Remember, the raises are annual, and so are the added costs for school districts.

What are taxpayers getting for this extra investment every year? There is no guarantee of anything, because there are no incentives for teachers to improve their performance in exchange for annual raises.

As the Deseret (Utah) News wrote in a 2011 editorial, “...The idea that all teachers should be paid equally regardless of performance is clearly not the pathway to a better education system.

“It is easy ... to imagine that more talented young people might be attracted to teaching careers if they believed they would be rewarded economically for doing a great job.”<sup>30</sup>

The money would be far better spent on some sort of bonus or merit pay program tied to teacher performance. That sort of system, which is being adopted by more and more schools around the nation, would require some form of measurable improvement for teachers to get a raise, so students would benefit and taxpayers would be getting something for their money.

Districts would probably also spend less on raises every year, since some teachers would not qualify for any type of raise.

Kenneth Grover, principal of the highly successful Innovations Early College High School in the Salt Lake City school district, has witnessed the positive benefits of merit pay on a limited basis in his district.

"It does work – it does motivate," said Grover, who is also the director of secondary education in the Salt Lake City district. "If you know you are going to get rewarded for demonstrating gains, why wouldn't you be motivated?"

Some great young teachers working under traditional union pay scales become frustrated because they are compensated the same as lesser instructors. Some leave the profession because of that, according to Grover.

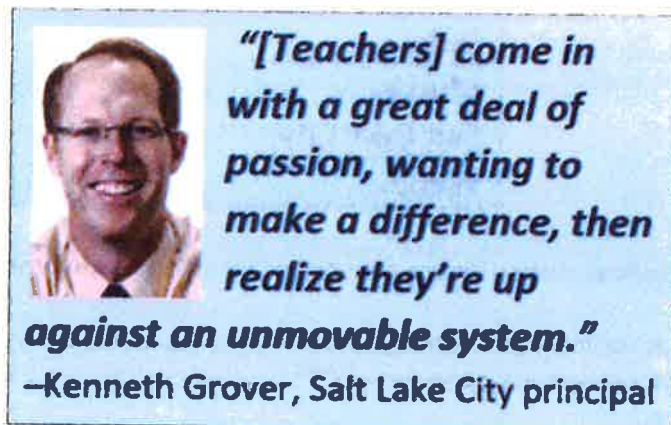
"They come in with a great deal of passion, wanting to make a difference, then realize they're up against an unmovable system," Grover said.

There is hope on the horizon. A new Utah state law requires public schools to have a new comprehensive teacher evaluation system in place by the 2015-16 academic year, according to Linda Alder, educator effectiveness coordinator in the Utah State Office of Education.

The evaluations will be based on three criteria – observation, student growth and stakeholder input, Alder said. Teachers will be ranked in a four-tier system, and those on the two lowest tiers will not qualify for step raises until they improve.<sup>31</sup>

That will address the problem of weak teachers receiving raises, but the law does not force districts to differentiate compensation among those in the two higher tiers.

The majority of teachers will probably fall in the two highest categories, but some will still be far better than others. There is a difference between doing a good job and a great one, and the great teachers should make more.



The new law does not require local school boards to establish merit pay systems, or abolish "step raise" systems. While they would be free to do so, school boards will still have the option of negotiating compensation systems with their local teacher unions, according to Alder.<sup>32</sup>

"I think most districts will choose to negotiate," Alder told EAGnews.

That means automatic, annual step raises will probably survive in some form, because the unions wouldn't have it any other way.

At least one Utah district with a teacher union – Ogden – may be a strong candidate to ditch step raises when the new teacher evaluation system is in place.

"I believe we will be able to have a conversation about what we really mean when we say we want a good teacher," Brad Smith, the Ogden school superintendent, told EAGnews. "When we talk about a good teacher, one hallmark is that they tend to be engaged on collaborative work with their fellow teachers every day. Right now there is no way to reward them for that.

“Once we have these systems in place, we can make compensation reflect our priorities.”

### ***Lots of paid days off***

Sick and personal leave provisions in union contracts have also proven costly for several Utah school districts, in more ways than one.

The districts spend large sums of money on pay and benefits for absent teachers, and big dollars for substitutes. Meanwhile, many studies have illustrated that teacher absenteeism clearly affects student learning and performance.

As the Center for American Progress wrote in a report about teacher absences, “Teachers are the most important school-based determinant of students’ academic success. It’s no surprise researchers find that teacher absence lowers student achievement. Second, (education) resources are scarce, and any excess of funds tied up in teacher absence, which costs at least \$4 billion annually (across the nation), should be put to better use.”<sup>33</sup>

Salt Lake City attorney Blake Ostler, who has represented many schools in labor affairs, calls the generous sick leave policies “a pretty amazing thing.”

“With the amount of leave they are given, when one is terminated, they will usually have three or four months of back pay coming, due to unused paid leave,” Ostler said.

Perhaps the most outrageous paid absence policy in Utah comes from the Nebo district:

*For career educators, the number of sick leave days available at the beginning of each school year is 120 working days minus the number of days used during the previous two school years. However, the compensation during the last 30 days available will only be 85 percent of regular salary.*<sup>34</sup>

Talk about an incentive for being sick a lot! If a Nebo teacher took no sick days, or just a few, for two years, he or she could take two-thirds of a school year off (a normal year being about 180 days) and still collect a good portion of his or her salary.

As a result of this policy, Nebo’s approximately 1,250 teachers took a combined total of 11,253 sick and personal days off in 2012-13, while making a combined \$2.27 million in salary for days they were absent.<sup>35</sup>

District officials indicated that they could not provide the amount of money paid to substitute teachers in 2012-13.

“(The policy) was something negotiated in the teacher’s agreement years ago,” Dean Rowley, a member of the Nebo school board, told EAGnews. “We’ve been trying to whittle it down each year.”

Nebo district spokeswoman Lana Hiskey said teachers may be asked to provide a doctor’s excuse if they are absent “in excess of 12 days and each 15 days after.” The school board also has the right to seek a

second medical opinion regarding an employee medical condition that's causing a great deal of absence, she said.

Hiskey noted that the 120-day plan also serves as the district's short term disability policy. But she acknowledged that the policy is "excessive."<sup>36</sup>

The Murray City school district has a similar policy in its teacher union contract.

Teachers (and other qualified employees) with more than three years of experience receive up to 180 paid sick days over a two-year period.<sup>37</sup>

That led the approximately 280 teachers in this small district (one high school, two middle schools, and seven elementaries) to take a combined 1,763 sick and personal days in 2012-13. Absent teachers collected a combined \$496,343 in salary, while the district spent \$143,420 on substitutes.<sup>38</sup>

The Salt Lake City district has a contract provision giving teachers up to 72 hours per school year of sick leave and up to 16 hours of personal leave, all with full pay. Teachers can also take another eight hours of personal leave, as long as they cover the cost of a substitute teacher.<sup>39</sup>

That comes to 96 hours of paid time away from the classroom, which is more than two weeks of work, based on a typical 40 hour work week. That's on top of summer vacation and paid holidays teachers receive during the school year.

As a result of this policy, Salt Lake City's 1,150 teachers (approximately) were paid a combined \$3.7 million for sick and personal days in 2012-13. That forced the district to spend \$1.3 million on substitute teacher costs.<sup>40</sup>

Salt Lake district officials said the exact number of sick and personal days taken by teachers is not available. While that's hard to believe in a large, metropolitan school district with modern record-keeping technology, we will take their word for it.

<b>2012-2013 Sick Days Taken</b>		
<u>District</u>	<u>Days Taken</u>	<u>No. of Teachers</u>
<b>Logan City</b>	<b>3,411</b>	<b>260</b>
<b>Murray</b>	<b>1,763</b>	<b>280</b>
<b>Nebo</b>	<b>11,253</b>	<b>1,250</b>
<b>Salt Lake City</b>	<b>n/a</b>	<b>1,150</b>
<b>Weber</b>	<b>12,202</b>	<b>1,250</b>

Logan City's negotiated policy is also generous and expensive. Teachers are given 10 paid sick days and four paid personal days every school year. Those who accumulate 150 unused sick days qualify for 10 extra paid sick days per year.<sup>41</sup>

As a result, the approximately 260 Logan City teachers took a combined 3,411 days off in 2012-13. The district also spent a whopping \$482,276 on substitutes to cover absences for personal and sick leave (along with bereavement, school and district business, FMLA and absence without pay).<sup>42</sup>

Finally there's the Weber school district, which allows 10 paid sick days per year and another 10 sick days at 50 percent compensation. Sick leave is paid for illnesses to teachers, their spouses, children or parents, or anyone living in the household. So a teacher can receive full pay for an absence that's due to the illness of their mother, father or some person they rent a room to, as far as we can tell.<sup>43</sup>

The Weber district also allows 16 hours of personal leave.<sup>44</sup>

The approximately 1,250 Weber teachers combined to take 12,202 sick and personal days in 2012-13 and were paid a cumulative \$3.2 million for days they were absent. The district was forced to spend \$707,746 on substitute teachers that year.<sup>45</sup>

## **Part 4**

### **Who gets what teaching job? In several Utah school districts, it's still about seniority, not about skill**

There is a mountain of research strongly suggesting that K-12 students learn a great deal if they have good teachers, and miss out on a lot if they don't.

Here's just one example, offered by the Center for Public Education:

"Fifth-grade math students in Tennessee who had three consecutive highly-effective teachers scored between 52 and 53 percentile points ahead of students who had three consecutive teachers who were least effective, even though both groups had the same achievement rates prior to entering the second grade. A similar study in Texas showed a difference of 34 percentile points in reading and 49 percentile points in math."<sup>46</sup>

But who are the effective teachers? It completely depends on the individual. Effectiveness is not necessarily tied to educational background or years of experience, according to a study published by the Rand Education Corporation:

"Despite common perceptions, effective teachers cannot reliably be identified based on where they went to school, whether they're licensed, or (after the first few years) how long they've taught. The best way to assess teachers' effectiveness is to look at their on-the-job performance, including what they do in the classroom, and how much progress their students make on achievement tests."<sup>47</sup>

But teacher effectiveness has never been much of a concern for teacher unions across the nation. That's seems to be the case in Utah, based on provisions in various collective bargaining agreements we have inspected.

Over the years Utah teacher unions have managed to negotiate various clauses giving teachers with seniority the right to avoid transfers, and the right to “bump” less senior teachers out of their positions, even if that means a better teacher (or one more suited to a certain assignment) has to go somewhere else.


Negotiated policies in several districts also give current teachers priority in filling open positions, even if outside candidates can be found who might do the job better.

A new Utah state law prohibits school districts from making layoff or termination decisions based on seniority alone, but it doesn’t address policies that give senior teachers first dibs at the more preferable jobs, or allow them to avoid unwanted transfers.

The Utah Office of Public Education (UOPE) recently announced a new program designed to maximize the chances of all students having access to high quality teachers, according to Linda Alder, the education effectiveness coordinator at UOPE.<sup>48</sup>

School districts will have to submit plans to the state, showing how they propose to meet the above stated goal, Alder said. That might help get rid of some union contract provisions that still reward seniority over skill, but that depends on how the program is administered, and what sort of district compliance plans are considered acceptable by the state.<sup>49</sup>

In the meantime, it’s clear that a lot of personnel moves are (or could be) made for the convenience and benefit of senior teachers, regardless of whether they are the best possible teachers.



***“If (senior) teachers get displaced, they’re not firing them. Once they’re in they typically stay. That’s where seniority kicks in. They can bump other people. It doesn’t matter if they’re good teachers or bad, as long as they have seniority.”***

**—Michael Clara, Salt Lake City school board member**

Professionals concerned with student learning know that these dinosaur “adult first” policies are harmful for schools and kids. As the organization StudentsFirst wrote in a recent article:

“If staffing decisions were based on the needs of students, districts would obviously make every effort to keep the most effective teachers in place. Unfortunately, current laws and policies often force schools to make placements based on how long a teacher has been in the system.

“These policies take several forms, such as seniority transfers, which allow senior teachers to claim positions from other teachers regardless of their fitness for the position; Excessing rules, which dictate that the least senior teacher will be displaced whenever a school reduces the number of teaching positions; and ‘Last In, First Out (LIFO) layoff rules,’ which require districts to terminate the most recent hires when layoffs are required.

“Put into practice, the combination of these rules often produces devastating results for students.”<sup>50</sup>



This is happening in Utah, according to Michael Clara, who is a school board member in the Salt Lake City district.

“If (senior) teachers get displaced, they’re not firing them,” Clara told EAGnews. “Once they’re in they typically stay. That’s where seniority kicks in. They can bump other people. It doesn’t matter if they’re good teachers or bad, as long as they have seniority.”

### ***Teacher quality not a factor***

The following union contract provision governs the filling of vacancies in the Davis school district:

*In filling vacancies, consideration shall be given to qualified teachers voluntarily requesting transfers ... The principal shall interview at least two qualified district transfer candidates before filling a vacancy if contacted by transfer candidates before the position is filled ... In evaluating transfer candidates, principals shall give extra consideration to those who have served 10 or more years at their present school.<sup>51</sup>*

Does this sound like there's a bit of pressure on the principal to choose a transfer candidate, regardless of whether that teacher is more qualified, or a better fit, than an outside candidate might be?

Parents and taxpayers might reasonably expect the principal to interview all interested parties and choose the best possible teacher, but it just doesn't work that way.

Here is another union contract provision from the Davis district:

*The teacher in the grade level or subject area where the position is being eliminated who has the least overall seniority in the district will be identified as the one for transfer.<sup>52</sup>*

This policy is straight out of the union dark ages, when seniority was everything and competence played no role in school personnel decisions.

Then there's this from the Davis teacher union contract:

*When more than one teacher is identified for involuntary transfer at an elementary school in a given school year... (and) if more than one (of those teachers) chooses to take the place of (or bump) another educator with less district seniority, the principal shall meet with all those designated for involuntary transfer and identify to them an equal number of teachers at that school with the least overall seniority in the district.*

*In consultation with the teachers designated for involuntary transfer, the principal shall determine which lower seniority teacher shall be replaced by each teacher identified for involuntary transfer. A teacher thus replacing another educator with less district seniority shall assume the same grade level assignment as the individual he/she is assigned to replace. The teachers who are replaced under the terms of this provision shall then be designated for involuntary transfer from the school.<sup>53</sup>*

Could this policy be more illogical? If they are going to let teachers whose positions are being eliminated replace other teachers with less seniority, shouldn't they make sure that the senior teachers are more effective than those they are bumping, particularly at the grade level they're bumping into?

Yet we find no wording in this policy even remotely addressing teacher competence. The unspoken suggestion is that all teachers are equally effective, which everyone knows is absurd.

Several collective bargaining agreements in other Utah districts have the same type of rules.

One provision in the Carbon school district contract says:

*Voluntary transfers will be honored prior to opening positions to outside applicants.*<sup>54</sup>

Again, a district is shutting the door to new talent, without finding out who might be available and what they might offer the district.

Kenneth Grover, director of secondary education at Salt Lake City schools, said the union bumping process can prevent schools from getting a healthy mixture of new teachers on staff.

"The needs of a (school) building can get a little politicized," Grover said. "A teacher with seniority might say 'I can go back to school to get that certification' (for an open position or bumping opportunity), but that might be the least effective teacher in the building. Because of things like that, schools tend to not be able to get new blood in."

Grover has also seen a fair number of promising young teachers laid off over the years due to union seniority rights.

"Every year this happens," he said. "We only hire teachers on 'one-year' contracts for their first three years, due to this dynamic. We consistently lose great young teachers."

### ***Current teachers 'shall have priority'***

The Logan City collective bargaining agreement has an involuntary transfer policy that starts by incorporating the right idea (teacher quality), but quickly devolves into the same old nonsense.

It says that when an involuntary transfer is necessary, the principal shall determine who gets transferred by various criteria, including quality of teaching, certification, experience and seniority. The principal may also seek a volunteer to take the place of the person to be transferred.

However,

*If there are no volunteers or if there are concerns with the above considerations, the teacher in the grade level or subject area where the position is being eliminated who has the least overall seniority in the district will be identified as the one for transfer.*<sup>55</sup>

How difficult would it be for the union to raise "concerns" about the "quality of teaching" criteria, thereby triggering the tired old seniority clause? Why don't they just come out and say it – the real policy is "last in, first out," period.

The Salt Lake City district's union contract has several provisions favoring existing teachers over potential newcomers, such as the following:

*All teachers currently in a school, who hold the necessary qualifications, including part-time teachers and those on leave of absence, shall have priority to any internal vacancies in the school before any external vacancy is declared.<sup>56</sup>*

Another provision, aimed squarely at the hiring process, puts a lot of pressure on principals to fill vacancies from inside.

*If fewer than three qualified career teachers (already on staff) have applied, the principal may request additional outside recruitment and consider applicants from outside the district along with any career teachers ... In the event none of the internal applicants meets the prerequisites for the position, the principal shall justify to the Human Resources administrator, the reasons why none of the internal applicants could be selected.<sup>57</sup>*

Sounds like the principal had better hire an internal candidate, qualified or not, or heads are going to roll.

And finally there's this beauty from the Salt Lake City contract, regarding "unassigned" teachers.

Sometimes teachers become "unassigned" for various reasons, leaving them on the payroll, but without a permanent daily position. Sometimes that occurs because they don't fit in well at the school where they were assigned, but have done nothing to justify termination.

Even within the realm of "unassigned" teachers, the old problem of seniority pops up again.

The contract provision says:

*(administrators) shall be prepared to justify any decision which leaves a 'less senior' teacher in a school and a 'more senior' teacher unassigned.<sup>58</sup>*

In other words, the much easier route is to make sure the more senior teacher is assigned, whether he or she is the most fit for the opening or not.

## **Part 5**

# **Union contracts force several Utah school districts to give ineffective teachers far too many chances**

Given the crucial role good teachers play in student achievement, one might expect public school officials to quickly terminate educators who don't get the job done.

Unfortunately, most public K-12 school districts have teacher unions, and the unions have been successful over the years negotiating collective bargaining provisions – and lobbying for the establishment of state laws – that make it difficult to dump problem teachers.

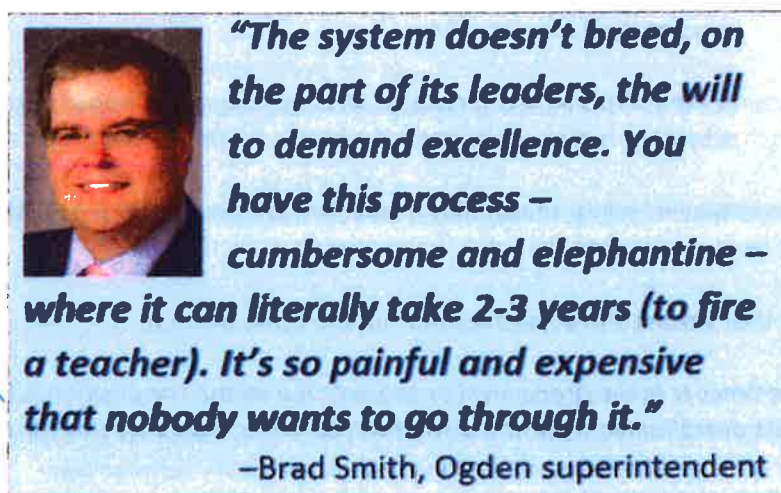
This topic was front and center in the recent *Vergara v. California* lawsuit, in which a judge startled the education establishment by ruling that teacher job protections deny many students their constitutional right to a quality education.

The judge cited a four-year study that showed Los Angeles students taught by a teacher in the bottom 5 percent of competence lose 9.54 months of learning in a single year when compared to students with an average teacher.<sup>59</sup>

That, the judge said, “shocks the conscience.”<sup>60</sup>

The same type of problem exists in Utah.

EAGnews recently inspected collective bargaining agreements in nine Utah school districts that still mandate cumbersome, expensive processes for addressing incompetent “career” teachers and removing them from the system.



The negotiated provisions are focused on giving troubled teachers every possible opportunity to improve, with few obvious time restraints. There doesn't seem to be much concern about leaving an “improving” teacher in front of students for extended periods of time, regardless of how little the students might be learning.

“You can go from district to district, and everyone knows who the awful teachers are who have managed to stay on forever and ever,” said Brad Smith, superintendent of the Ogden, Utah school district. “The system doesn’t breed, on the part of its leaders, the will to demand excellence. You have this process – cumbersome and elephantine – where it can literally take 2-3 years (to fire a teacher). It’s so painful and expensive that nobody wants to go through it.”

“In (union) contracts the main priority is the protection of a job. The education of the student is a secondary priority. When you invert those, that’s the morally correct priority.”

Blake Ostler, a Salt Lake City attorney who has worked with many school districts on labor issues for decades, said schools that dare to go the distance and fire an incompetent teacher can expect retribution from the teacher union.

"If a school does go through the process and ends up letting someone go due to competence issues, the union will typically lobby the school board to get rid of the superintendent and human resources director," Ostler told EAGnews. "I've seen it happen lots of times. (The school boards) will pay the price, in terms of intimidation."

Another problem is that due process hearing officers who preside over termination cases are sometimes chosen jointly by the school board and union, according to Ostler. That means the hearing officers may be more concerned about pleasing both masters than they are about removing incompetent teachers from classrooms.

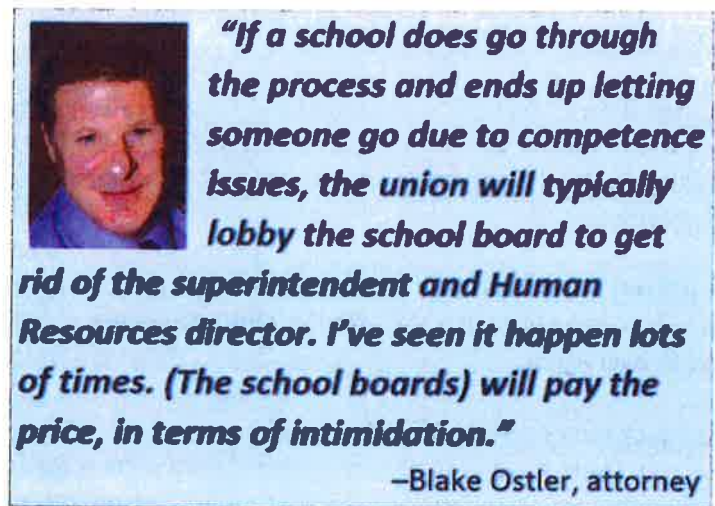
"(The hearing officers) know that if they want to continue to be paid, they need to reach some sort of compromise so both sides will feel they have gotten what they need," Ostler said.

### ***Bending over backward for bad teachers***

The core of the problem in Utah is a state statute that mandates all teachers struggling with effectiveness be given opportunities to improve their skills before they can be terminated.

But individual school districts and their unions have the right to customize that basic policy, and some have adopted contract terms that make it even more difficult to fire bad teachers.

The following is a union-negotiated policy in the Weber, Utah school district, with respect to "teacher remediation and probation."



*A teacher whose performance is inadequate or in need of improvement shall be provided with a written document that clearly identifies deficiencies, available resources for improvement, and recommended course of action that will improve the teacher's performance. The district shall provide the teacher with reasonable assistance to improve performance.*

*A teacher is responsible for improving performance by using the resources identified by the school district and demonstrating acceptable levels of improvement in the designated areas of deficiencies. The plan will indicate the length of time for remediation. Teachers on remediation will be placed on probation, and removed from probation when they have successfully satisfied the terms.<sup>61</sup>*

This policy, which borrows some language from state law, seems pretty open-ended. Just how much time should an administrator give a bad teacher to improve? Does the local union push for lengthy remediation periods? However long the remediation, it appears students will continue to be taught by questionable teachers. How fair is that to children and their parents?

The Logan City school district has several union contract provisions (also largely based on state law) regarding teachers with "deficiencies."

*The principal or designee of the board shall develop and implement a career educator plan of assistance to correct the deficiencies. The plan of assistance shall identify: (a) deficiencies; (b) resources available to the educator, including a mentor. The plan shall include opportunities for the principal or designee to reevaluate the educator's performance.*

*The board shall provide the career educator sufficient time, up to but not exceeding 120 school days, to implement the plan.*

*If upon reevaluation of the career educator's performance, the district determines the career educator's performance is satisfactory, and within a three-year period after the initial documentation of unsatisfactory performance for the same deficiency ... the career educator's performance is determined to be unsatisfactory, the district may elect to not renew or terminate the career educator's contract.<sup>62</sup>*

Let's see if we understand this correctly. A teacher with performance problems gets an improvement plan, with a district-paid tutor, and up to 120 days to implement the plan. That doesn't appear to mean 120 days to show measurable improvement. There doesn't seem to be any sort of defined timetable for improvement.

But if the teacher slips after initial improvement (for the same deficiencies) within the next three years, he or she can be fired. If it's a different type of deficiency, we assume the remediation process has to start all over again.

This policy forces district officials to spend an awful lot of time, money and energy coddling teachers who aren't very good at their jobs. It also requires the school to leave a struggling teacher in a classroom for a lengthy period of time, while the students presumably struggle as well.

Then there's the state law, copied in the Weber collective bargaining agreement, which dictates the precise manner in which a teacher can be terminated:

*When it's determined that a teacher's contract will not be renewed for the following academic year, the district must notify that teacher in writing at least 60 calendar days prior to the end of the contract, or June 30.*

*In the absence of timely notice, a career teacher is deemed to be re-employed for the succeeding contract term...<sup>63</sup>*

In other words, if there's some sort of accident, like a lost letter, the defective teacher gets to come back and be a defective teacher for another year.

Kenneth Grover, the director of secondary education in the Salt Lake City school district, said he's witnessed that type of thing happen over the years.

“The argument is, administrators have tools at their disposal (to fire bad teachers), but it doesn’t always work out that way,” Grover said. “They might accidentally miss some window of opportunity, and suddenly they’re back to square one.”

### ***Salt Lake’s double-remediation process***

Consider the following series of policies, regarding struggling teachers, from the Salt Lake City district's union contract:

*When the principal believes a teacher needs assistance to improve his/her teaching performance, the administrator shall work informally with the teacher using classroom observations, feedback and informal suggestions for improvement. The principal, in consultation with the association (union), may form a team ... which would continue the process of remediation if necessary.*

*Frequent written and oral feedback should be given to the teacher, but no record of this process shall be on file in the teacher's personnel file.*

*If the principal ... determines that performance assistance has not solved the problem, remediation shall be instituted... A remediation team shall be formed to maximize the help given to the teacher in the remediation process.*

*The remediation team shall develop a remediation plan in consultation with the teacher within five district scheduled working days after the first remediation team meeting. If the remediation team determines that there is insufficient time to begin effective implementation of the remediation plan before the end of the school year, remediation shall be postponed until the beginning of the following school year with no monetary penalty to the teacher.*

*The remediation shall have a flexible time line ranging from 30 to 60 working days... The remediation team shall meet at least once a month to review teaching performance as observed by members of the team.*

*At the conclusion of the remediation process a meeting with the teacher and members of the team shall take place ... If remediation is successful ... the remediation process shall be terminated. After three years of satisfactory performance all references to the remediation process shall be removed from the employee's personnel file.*

*If, after successfully completing remediation, a teacher reverts to previous patterns of poor performance within three years, that teacher shall be placed immediately on remediation. A return to patterns of poor performances after two remediations shall result in termination.<sup>64</sup>*

Just how long might this process take? First there is the informal performance assistance period, which doesn't seem to have a defined timeline. Then there is the first remediation process, which can take up to 60 days. Already, between the two processes, it would probably kill close to a semester.

If remediation works, the teacher is off the hook. There doesn't seem to be language addressing what would happen if it fails. But if the poor performance repeats itself within three years, the teacher is entitled to yet another remediation period before being fired.

All of that adds up to a lot of wasted days for the students of unfit teachers. How far must schools bend to be fair to bad teachers before crossing the line of gross unfairness to students?

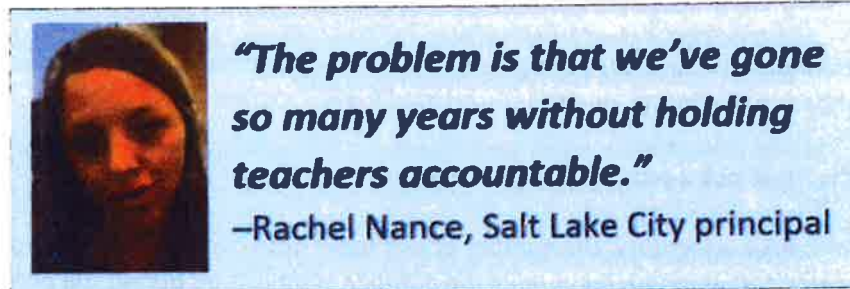
### ***The Northwest Middle School example***

Northwest Middle School in the Salt Lake City district is a great example of the importance of having quality teachers in every classroom.

Between 2010 and 2013, the school went from being one of the worst academically performing middle schools in the state to one of the best, according to media reports. The percentage of students proficient in math increased from 39 to 79 percent. Science proficiency improved from 38 to 58 percent and the average reading level increased from fourth grade to seventh grade.<sup>65</sup>

Much of the improvement was accomplished with the replacement of about half of the 45 teachers in the building.<sup>66</sup>

That process was not easy, given the union contract language that calls for two full remediation periods before a teacher can be fired.



Northwest Principal Rachel Nance, who was assistant principal through most of the transition, said administrators were determined to address all underperforming teachers, regardless of how difficult it was.

She said they used every tool at their disposal, including a district policy that no longer exists, which forced all teachers in their first three years to reapply for their jobs every year.

They were also willing to go through the double-remediation process with veteran teachers, with the goal of “coaching them up or coaching them out,” according to Nance.

“Most of them left because they realized they no longer fit in here,” Nance told EAGnews. “From our perspective, it’s about administrators not wanting to go through the tough process. It is difficult and ugly to have to tell someone who may have been teaching for 15 years that they may need to move on.”

Nance said she believes that teachers should have some sort of due process before they can be terminated. She said remediation is sometimes necessary for teachers who haven’t been called on to produce positive results in many years.

“The problem is that we’ve gone so many years without holding teachers accountable,” Nance said. “Research shows kids can overcome having one bad teacher for a year, just so they have two good teachers in a row.”



But when asked if it's fair to students to leave an underperforming teacher in a classroom for an extended remediation period, Nance said "no."

When asked if it would be much easier to manage a teaching staff, and guarantee that the right teachers are in front of the right students, without all the union rules, she said, "Sure, that's the easy answer."

Since schools only exist to serve the needs of children, that should be the only answer.

## **Part 6**

### **Lazy, apathetic school boards allowing teacher unions to ignore verification rules**

In their more honest moments, many public school board members admit they would love to get rid of their local teacher unions.

That's because the unions frequently drive up labor costs, create an atmosphere of antagonism between administrators and employees, disrupt the learning environment, make it difficult to fire incompetent or dangerous teachers, and complicate efforts to put the best teachers in front of children.

Some Utah school boards place conditions on union recognition, at least in writing. They have contract provisions demanding periodic evidence that their local unions represent at least 50 percent of their teaching staffs.

Such policies make sense, because state law says school boards can only recognize and negotiate with employee unions that represent at least half of a given employee group.<sup>67</sup>

But when asked for evidence that they have followed through and pressed the unions to demonstrate their legitimacy, several schools failed to provide convincing answers.

For instance, the Nebo teacher union contract has a provision that states the following:

*The board agrees to recognize the association (Nebo Education Association) as the exclusive representative of all members of said instructional staff for the purpose of collective bargaining upon being furnished with satisfactory evidence that a majority of said members have designated or selected the Association as their representative.<sup>68</sup>*

That sounds like the board means business: Prove to us that a majority of teachers really want your services, or get lost.

But that's not exactly how it's worked out.

When asked by EAGnews the last time the district was provided with such "satisfactory evidence," Nebo school officials responded with the following statement:

"We do not have data as to how members voted as to whom they want to represent them."<sup>69</sup>

If there's no data, that means the board has no "satisfactory evidence," and should therefore revoke recognition of the union, right?

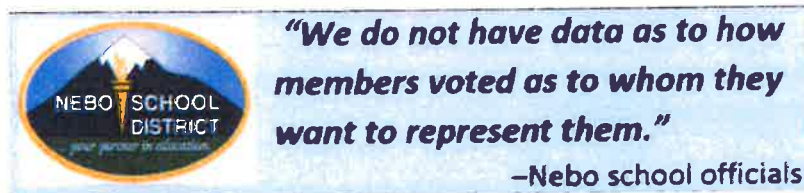
Was there actually an election to determine if the majority wanted to keep the union? When was that? Were secret ballots used? Who conducted the election and counted the votes? If it was the union, was there an unbiased party on hand to verify the results?

When will the next such election take place, since people do change their minds?

The only thing that seems certain is that the contract language appears to be a meaningless joke, and we're guessing that the union leaders know it.

*If you show them a safe way out ...*

Since Utah is a right-to-work state, no employee can be compelled to join a union or pay any type of union dues as a condition of employment.



That suggests the existence of a free and open environment for employees to join or leave unions, as they choose.

But that's not how it works, even in right-to-work states.

New employees in any workplace obviously feel a great deal of pressure to conform and fit in, so many will understandably join the union when invited. Once in, most stay in, for a variety of reasons.

One is apathy. Many teachers simply don't care enough about the union or its issues to bother to resign and draw unwelcome attention to themselves. But that doesn't necessarily mean they prefer membership. They simply go with the flow and allow their dues money to be taken from their checks, a situation that works to the union's advantage.

Another reason is ignorance. Some teachers don't even know they can drop out of unions.

Many teacher unions have very short windows of opportunity every year for members to resign, and that time is usually in the summer, when school is not on teachers' minds.

A good example comes from Clark County, Nevada (Las Vegas). In the summer of 2012, the Nevada Policy Research Institute launched a campaign to inform local teachers that they are allowed to resign from their union by submitting written notice between July 1-15 of any year.

More than 800 teachers used the information and resigned.<sup>70</sup>

In some circumstances, those teachers who have the courage to resign from their unions are treated very badly, even in right-to-work states.

Michigan became a right-to-work state in the summer of 2013, which prompted many teachers to resign from their unions. One local union responded by publishing the names of 16 teachers who resigned in its newsletter, clearly to embarrass them, and perhaps to provoke loyal members into harassing or harming them.<sup>71</sup>

Tactics like that are enough to scare a lot of teachers into retaining their union memberships, whether they want to or not.

The real question is how Utah teachers would vote on continued union representation if they could cast private, anonymous ballots every year or two.

We can make an educated guess based on recent results in Wisconsin, where a new state law requires public sector unions to have private ballot recertification votes for members every year.<sup>72</sup>

In December 2013, 408 Wisconsin school districts had union certification elections. Twenty-two voted to decertify. Altogether more than 70 school employee unions decertified.<sup>73</sup>

The evidence is clear – a percentage of union members will head for the door if they believe they can do so without recrimination.

But they're not getting much help or encouragement from their employers.

### **'Satisfactory evidence'**

Check out the language in the teacher union collective bargaining agreement in the Salt Lake City district:

*If within 90 days prior to Dec. 31 of any year good cause exists to believe that a majority of teachers have not designated or selected the association as their representative, the board may request and shall be furnished by the association with satisfactory evidence of such designation or selection by such majority, failing which the association shall not be recognized as the representative.*<sup>74</sup>

When EAGnews asked the district to name the last time it received "satisfactory evidence," Salt Lake school officials offered the following response:

"Insofar as 60 percent of the district's teachers belong to one particular union, that union is the representative/bargaining agent."<sup>75</sup>

Officials in the Weber school district offered the same type of response: "Weber district has not taken a poll. We rely on the number of teachers that pay dues through payroll deduction to the association. For 2012-13, a slim majority of teachers were dues paying members to the association."<sup>76</sup>

Is it fair to assume, every single year, that a majority of teachers actually prefer union representation, particularly when slim majorities are members? Is there a chance that at least 10 to 15 percent of members might vote against membership if there was a secret ballot election?

“That’s interesting,” said Nebo school board President Rick Ainge, when asked if his district had ever considered pushing for a private ballot certification election. “That’s not something we’ve ever looked at or considered before.”<sup>77</sup>

The Davis school district contract says:

*The board shall continue to recognize the association as the exclusive representative for the term of this agreement or any renewal thereof as long as there is verification of representation.*<sup>78</sup>

When asked about the latest example of that “verification,” the Davis district offered the following response: “The Davis Education Association has not provided the district any data related to this topic.”<sup>79</sup>

That means the contract provision has been violated. So why does the district continue to recognize the union?

The Logan City teacher union contract says:

*The board agrees to recognize the association as the exclusive representative of all members of the professional staff upon being furnished with satisfactory evidence that a majority of said persons have designated or selected the association as their representative.*<sup>80</sup>

When asked about the “satisfactory evidence,” the district replied, “The Logan City school district received verbal confirmation from the Logan Education Association at the beginning of the 2013-14 school year that a majority of educators are members of the Logan Education Association.”<sup>81</sup>

In other words, because the union said so.

If that’s all the “satisfactory evidence” the district requires, it’s going to be stuck with its parasitic teacher union for a very long time.

## **Part 7**

# **Bizarre Utah teacher contract provisions: Do they really have to put this stuff in writing?**

We have no doubt that there are thousands of absolutely terrific teachers in Utah public schools - even those schools with teacher unions and collective bargaining agreements.

As Salt Lake City attorney Blake Ostler told EAGnews, "I believe the teachers we have in Utah are the best in the United States. Given the size of classes and school budgets, the results we get from teachers is unparalleled."

But there must be at least a handful of not-so-great teachers in the union districts, as well. If there weren't, we wouldn't find the kind of language that we found in several district collective bargaining agreements.

One contract provision in the Nebo district says:

*It is deemed to be professional that an educator put in enough time to do the job effectively.*<sup>82</sup>

A similar provision in the Weber contract says:

*Teachers are expected to devote the time necessary to meet their responsibilities.*<sup>83</sup>

Then there's this from the Granite contract:

*The board and the association recognize that a teacher's primary responsibility is to teach.*<sup>84</sup>

Do some teachers really need to be told in writing that they, as degreed professionals, are expected to perform their duties in a serious and thorough manner, particularly when crucial student learning hangs in the balance?

Even more frightening is the fact that Nebo school officials felt the need to include the following provision in its teacher union contract:

It says that one responsibility of teachers is "acting reasonably and prudently to protect the health, safety and welfare of students when they participate in school-sponsored activities."<sup>85</sup>

Such an obvious moral responsibility has to be spelled out? If so, there are more problems with the teaching profession than anyone ever imagined.

The above are just a few of the more disturbing provisions we came across in our recent inspection of teacher union collective bargaining agreements in nine Utah school districts.

There are more where they came from

### ***Union power, guaranteed in writing***

A few bizarre contract provisions give us a hint about the true nature of teacher unions, and the degree of commitment they have to student learning.

For instance, the Weber school district contract says:

*The association shall use its best efforts to correct breaches of professional behavior by teachers when so notified.*<sup>86</sup>

"Breaches of professional behavior" generally means that students are being shortchanged in one way or the other. Do the unions really have to be prompted with contract language to assist in keeping their members dedicated to the best interests of students?

We suppose that is understandable when you consider the number of documented incidents over the years when teacher unions throughout the U.S. went out of their way to help sexually abusive members slip out of trouble.

Teacher unions are famous across the nation for wanting to keep collective bargaining negotiations with local school boards behind closed doors, with no nosy reporters or taxpayers around.

That's generally because they don't want to seem greedy, and if the public knew what they were demanding, they would probably come across as greedy.

Unions in some districts address this concern by demanding contract provisions that keep the doors of the negotiating room locked, and the stream of released information tightly controlled.

For instance, the Granite contract says:

*The (collective bargaining) negotiation teams will meet in closed sessions, unless otherwise agreed upon mutually in advance.<sup>87</sup>*

The Logan City union contract says:

*Information (regarding negotiations) is released to the news media only when jointly prepared releases are mutually agreed upon.<sup>88</sup>*

Then there is the matter of union greed. Union contracts are supposed to be negotiated based on the amount of money a district has at any given time to invest in labor. Sometimes that means the unions have to settle for significantly less than what they wanted.

The Logan City teacher union obviously wanted to make sure it didn't get shortchanged if more money became available before a new contract is adopted:

*In the event funds for school operation and maintenance are made available during the year from state or federal sources which are in excess of the amounts anticipated at the beginning of the year, the salary schedules may be revised and the amount of individual contracts adjusted in such manner as the board and the association may at the time determine.<sup>89</sup>*

A lot of school board members and administrators complain that teacher unions have gained so much power that they play a large role in governing school districts. Just how much power do they have? Check out this provision from the Granite district contract:

*Faculty meetings shall not exceed more than one per month, except when cleared by a school accountability director and/or in the event of an emergency.<sup>90</sup>*

A lot of employees in a lot of professions hate staff meetings, but we have to attend because they're required. It must be nice sometimes to be a teacher.

Teacher unions have also been notorious over the years about demanding the exclusive ability to communicate with their members. The Granite teacher union was very explicit with the following contract provision:

*The association shall have the right to post notices of Association matters on a bulletin board space no smaller than 12 square feet established for the association's exclusive use in each school.*<sup>91</sup>

### **Parking privileges, mileage reimbursement to ride the bus**

We came across a handful of contract provisions that were eye-openers, if only for their absurdity.

The Davis school district contract says:

*A principal may recommend to a teacher that he/she should consider a transfer if serious public relations problems are evident.*<sup>92</sup>

Why should the boss of a school need contractual permission to say something like this to a troubled teacher who is causing unnecessary problems?

The Nebo district contract says:

*Each school will be provided with well-ventilated, clean, adequate separate restrooms for men and women educators.*<sup>93</sup>

We would like someone to name a school district that does not offer separate restroom facilities for men and women. Or dirty, unattended restrooms, for that matter. That would be a story.

The Nebo contract also says:

*Educators should be given preferential parking privileges wherever possible.*<sup>94</sup>

Why? Just because they are teachers, and they shouldn't have to walk as far as other people when they park their cars?

The Rich school district union contract says:

*Coaches/advisors who ride the bus will be compensated at a rate of ten cents per mile.*<sup>95</sup>

Why? The school district is paying for the gas and the maintenance of the bus, and the coach/advisor is already being paid for the extra-curricular service.

The answer to that question would require a logical answer, and as we've seen, logical, student-centered policies are definitely not the norm for teacher union collective bargaining agreements.

## ABOUT THE ORGANIZATIONS



Education Action Group Foundation, Inc. publishes EAGnews.org, a website dedicated to education news, research, analysis and commentary.

Founded by Kyle Olson in 2007, the group has conducted extensive research on school issues in Michigan, Indiana, Wisconsin, New Jersey, Ohio and New York.

Olson and EAG personnel assisted radio talk show host Glenn Beck in writing "Conform: Exposing the Truth About Common Core and Public Education." The book was #2 on the New York Times best sellers list for three weeks.

EAG's work is frequently cited by the Fox News Channel, the Drudge Report, The Blaze and numerous other news outlets.

The organization is headquartered in Michigan.



Parents for Choice in Education is dedicated to ensuring every child has equal access to a quality education by empowering parents, increasing choice, and promoting innovative solutions to Utah's educational challenges.

PCE envisions a day when all forms of education are open to parents so that every child in Utah has equal access to the quality education that allows them to reach their full potential.

The group is headquartered in Salt Lake City.

For more information, visit [ChoiceinEducation.org](http://ChoiceinEducation.org).



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