

**REPORT TO THE
UTAH LEGISLATURE**

Report No. 2001-11

**A Performance Audit
of School District Funding of
Education Association Activity**

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Digest of A Performance Audit of School District Funding of Education Association Activity

Public funds are being spent for education association leave without adequate policy and controls.

We have reviewed 21 of 40 Utah school districts for the use of public funds to support education association (professional organizations representing teachers' interests) activities. Utah's constitution dictates that public funds allocated to education must be spent in support of the public school system. We believe current policy and practice fail to comply with constitutional requirements for the use of public funds by districts for the support of the public school system. This is because the school districts lack controls over the expenditure of public funds for education association activities. Specifically,

- Sixteen of the twenty-one sampled school districts lack adequate controls over association leave
- About 76 percent of sampled school districts are subsidizing local education associations with public funds by approximately \$210,000 annually without documenting a benefit

Rules or guidelines on association leave are needed to help ensure that any public funds spent on such leave meet the requirements of the state constitution. Summaries of the main findings and recommendations follow.

School Districts Lack Controls Over Association Leave:

Current policies, procedures, and controls are inadequate to determine whether publicly funded education association activities provide a benefit to the school districts.

- Sixteen of twenty-one sampled school districts incur costs but lack controls over education association activities during the school day
- Only 69 percent (11 of 16) of the school districts allowing leave have a policy in place that addresses association activity leave
- Those policies that do exist are inadequate to ensure that funds spent by the districts for association leave benefit the district

Chapter II shows that district policies fail to ensure that public funds spent on association leave provide a benefit to school districts.

- Six of the eleven districts with policies are not adhering to them

School boards need to develop new or review existing policies on association leave and related expenses to improve controls and ensure that a benefit is derived from any association activity subsidized by public funds.

Recommendations include suggesting that the Legislature consider directing the State Board of Education to provide guidelines or directing local school boards to develop and implement better policy guidelines on association leave. This direction should include a requirement for guidelines to help determine which association activities benefit the school districts and which do not.

District Funds Subsidize Association Expenses: The same 16 sampled school districts are providing public funding in varying amounts for education association-related expenses without documenting that a benefit to the district is received. A conservative estimate of costs incurred last year without a documented benefit is \$210,000. The subsidy is problematic because these expenditures do not meet the requirements for the use of public funds laid out in the state constitution.

Recommendations include obtaining a legal opinion on which cost should be reimbursed (the actual cost of the teacher or the cost for a substitute teacher) when association leave does not benefit the school district and developing review and approval procedures to ensure that paid association leave time is only being allowed when it has been shown to benefit the district.

UEA Staff Are Eligible for Some State Benefits: The employees or staff (not teachers or local representatives) of the Utah Education Association (UEA) are currently eligible to participate in the Utah Retirement System (URS) and the Public Employees Health Plan (PEHP). The UEA is a participating employer in the URS but has chosen another health insurance provider. Most of the other states we contacted do not allow non-profit organizations in their state retirement or health insurance systems.

The recommendation for this chapter is that the Legislature may want to revisit the issue of eligibility for public retirement and health plans.

Chapter III discusses the expenses incurred by sampled districts without showing a benefit to the districts.

In response to a question posed by legislators, Chapter IV indicates that UEA employees are eligible for public retirement and health plans.

Chapter I

Introduction

Public funds are being spent for association leave without adequate policy and controls.

We have reviewed 21 school districts to identify the use of public funds in support of education association (professional organizations representing teachers' interests) activities. Most of these activities occurred via association leave, which is leave given to teachers to attend education association activities. Utah's constitution dictates that public funds allocated to education must be spent in support of the public school system. We believe current policy and practice fail to comply with constitutional requirements for the use of public funds by districts for the support of the public school system. This is because the school districts lack control over the expenditure of public funds for education association activities. Specifically,

- Sixteen of the twenty-one sampled school districts lack controls over association leave to ensure that public funds are spent for the benefit of the public school system
- About 76 percent of sampled school districts are subsidizing local education associations with public funds by approximately \$210,000 annually

Although the State Board of Education (SBOE) is not currently responsible for this area of policy, we believe the Legislature should direct the SBOE to develop and promulgate rules or guidelines on association leave to help ensure that any public funds spent on such leave meet the requirements of the constitution. If the SBOE is given responsibility to develop such guidelines, we believe there will be greater consistency among the school districts in meeting the requirements of the law.

An alternate approach would be for the Legislature to require local school boards to address the concerns raised in this report by developing or amending association leave policies. Because of the inconsistencies in practice and lack of definition of benefit, these guidelines or policies must provide criteria for determining which education association activities provide a clear benefit to the school districts.

Regarding controls over association leave, the *Utah Constitution* states that public funds for education are to be allocated to the support of the public education system. However, five of the sixteen sampled school districts which allow this leave lack a policy to help ensure funds are spent appropriately. All the policies that do exist are inadequate to ensure that districts receive a benefit commensurate with the incurred expense. Therefore, better controls are needed, including policies in each district allowing the leave as well as procedures for determining if a benefit is received by the district. To illustrate, it may be beneficial to the school districts for teachers to attend activities that improve skills or talents directly related to the education of students. However, as stated, the activities that benefit the school districts have not been specifically identified.

Because of the lack of policy and controls, public funds are subsidizing association leave expenses without a documented determination of benefit to the school districts. In the absence of the determination of a clear benefit to the school district, the use of any public funds to support education association activities is inappropriate. The expenses are incurred on behalf of local education association presidents as well as other teachers in the districts. Nearly all the sampled districts believe the association presidents' activities provide benefit to the districts, but they were unable to document that they received a commensurate benefit in return for the funds spent. Thus, we believe the Legislature should require the development of guidelines not only for the determination of benefit to districts, but also to determine the appropriate level of association reimbursement to the districts for those association activities not providing direct benefit.

To provide some context, it is helpful to recall how an entity's actions can affect its overall mission. Procedures implement policies at a day-to-day level; policy should be aligned with the agency's broad goals and objectives. Achieving goals and objectives, in turn, moves an agency toward fulfillment of its mission.

Local school boards have been given oversight and policy-making authority in order to fulfill the mission of public education in Utah. According to the Utah State Board of Education, this mission is "...to provide the opportunities for each student to be literate and possess the basic knowledge and life skills necessary to become a contributing citizen in today's society." For school districts to appropriately use public funds

Districts have failed to document receiving a benefit, so funds are spent inappropriately.

Local school boards must determine which association activities provide a benefit to their districts.

for education association activities, local school boards must have reviewed association leave and determined through policy that such leave provides a benefit to their districts and students.

Finally, in a related area of interest to legislators, employees of Utah's largest education association, the Utah Education Association (UEA), were found to be eligible to receive benefits from the Utah Retirement System (URS) and the Public Employees' Health Plan (PEHP). Currently, UEA staff participate in the URS but have chosen another health insurance provider.

Education Associations Are Active in Most School Districts

Education associations are Utah's main professional association for teachers.

Education associations are professional organizations for teachers. In Utah, there is a tiered set of education organizations. The National Education Association (NEA) functions at the national level with representatives in the various states. The Utah Education Association (UEA) is affiliated with the NEA but operates as a separate, statewide organization. According to UEA's Internet website, its mission is "to advance the cause of public education through promoting quality teaching and learning and to advocate effectively for the rights and interests of its members."

Nearly every school district in the state also has a local affiliate of the UEA. Each local education association is named according to the school district in which it resides. In Utah and in many other states, education associations are non-profit organizations, not state agencies. The associations are the designated bargaining unit for the teachers in the school districts.

Each active association has a president and also building reps in each school.

Teachers in Utah have the option of joining their local education association or not. When a teacher joins the local association, he or she also becomes a member of the UEA and NEA. Dues are paid to all three organizations. Twenty of the twenty-one sampled districts have an active education association. Membership ranges from 36 to 93 percent of teachers in the various districts. Except for the school district with 36 percent membership, the majority of teachers in the sampled districts belong to the local education association.

In a given school district, a teacher is elected by his or her peers to be the local association president. This teacher then functions as the association representative to the school district. There are also building representatives who coordinate with the president on issues, concerns, or information from the teachers in each school.

Some school districts also have a chapter of the American Federation of Teachers (AFT) operating, as well as professional organizations for classified employees, principals, and even bus drivers. However, the various education associations are the only associations to be granted significant amounts of association leave by districts.

Scope and Objectives

To assess whether and to what degree school districts use public funds to subsidize education association expenses, we chose a random sample of 12 districts, then added 9 districts to ensure both size and geographic coverage, for a total of 21 out of the state's 40 school districts. We conducted interviews with business administrators and other district officials and reviewed relevant policies, expense and leave records, and other documentation for each of the school districts in the sample. Discussions were held with the local education association president and sometimes an accompanying UEA Uniserve director. We also talked with school district and/or education department officials and education association officials in other states.

Audit work focused on the education associations because none of the other professional organizations in the school districts requested significant leave time for association duties. Further, the cost of substitute teachers was incurred only for the presidents and other teachers taking time for education association activities. Once preliminary work showed that 16 school districts in the sample incurred costs by providing association leave, we focused much of the work on those districts.

The objectives of this audit were the following:

- To determine the adequacy of district controls over education association expenses funded by districts to ensure that such expenditures benefit the districts

We reviewed association leave in 21 school districts, large and small, all over the state.

- To evaluate the cost-effectiveness of using public funds to support education association activities
- To determine whether the state level education association's staff are eligible for and participate in Utah public retirement and health plans

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Chapter II

School Districts Lack Controls Over Association Leave

16 of 21 sampled districts spend public funds on education association activities without proving benefit to the districts.

We found inadequate policy, procedures, and controls in place to determine that funded education association activities provide a benefit to the school districts. Sixteen of twenty-one sampled school districts incur costs for education association presidents and other teachers to conduct education association business during the school day. Thus, public funds are subsidizing non-profit education associations. These activities must provide a benefit to the school districts in order to meet constitutional requirements that public funds be spent in support of the public school system. Specifically, we have the following concerns:

- Only 69 percent (11 of 16) of the school districts allowing leave have a policy in place that addresses association activity leave
- Those policies that do exist are inadequate to ensure that any funds spent by the districts for association leave provide a benefit to the district
- Six of the eleven districts with policies are not adhering to them in some way

Districts lack controls in association leave policy and procedure.

Much of the problem can be attributed to a lack of controls in policy and procedure at the local school districts. In order to assure that local policies meet constitutional requirements, we believe the Legislature should consider directing either the Utah State Board of Education (SBOE) or the local school boards to develop better association leave policies and procedural controls. If it gives the SBOE this new directive, the Legislature could ensure greater consistency in association leave expenses by the local school boards. Better district policies on association leave and related expenses are needed to strengthen controls and ensure that a benefit is derived from any education association activity subsidized by public funds. In addition, the SBOE or the school boards should report back to the Legislature on the success of their efforts.

District Spending Fails to Meet Constitutional Directive to Support Education

In the *Utah Constitution* Article X, § 5(3) and Article XIII, § 12(3), funds in the Uniform School Fund and those received from income taxes or taxes on intangible property (in other words, public funds) are allocated to “...the support of the state’s public education system...” Public funds spent by school districts, including those spent on education association activities, must support the public education system. For purposes of the audit, we interpreted support of the public education system to mean that school districts derive a benefit from the funded activity. A legal opinion by the Utah Attorney General’s Office supports our determination. For example, Legal Opinion 85-73 states that:

If it can be shown to the board’s satisfaction that the *particular duties have a direct and beneficial effect on the district schools or will directly assist the board in its responsibility to promote education and the welfare of the schools, Utah Code Ann. § 53-6-20 [renumbered as 53A-3-402]*, and are not merely for the benefit of the private organization, then it would appear that there is a *commensurate return* for the spending of public funds and a policy of reasonable leave with pay would probably be upheld, *provided the benefit to the district is real and not merely an excuse to benefit the union or association.* [italics added for emphasis]

In addition, an informal legal opinion from the Office of Legislative Research and General Counsel states that “a local school district could use tax dollars to compensate a teacher for union-related duties, *provided that such duties were deemed to support the public school system.*” Further, the opinion says “If the --- School District has *adopted a policy that explicitly recognizes* that the union president’s union-related duties support the public school system, it may compensate her for such activities through state tax revenues without violating state law.” [italics added for emphasis]

Both the Attorney General’s Office and the Office of the Legislative Research and General Counsel state the need for a specific policy recognizing that education association activities support the public school system in order to use public funds for such activity. In our opinion, the policy must be supported by procedures and controls to provide assurance

According to the *Utah Constitution*, public funds spent by school districts must support the public education system.

Controls are needed to ensure public funds are spent appropriately.

that only those activities shown to benefit the school district are paid from district funds.

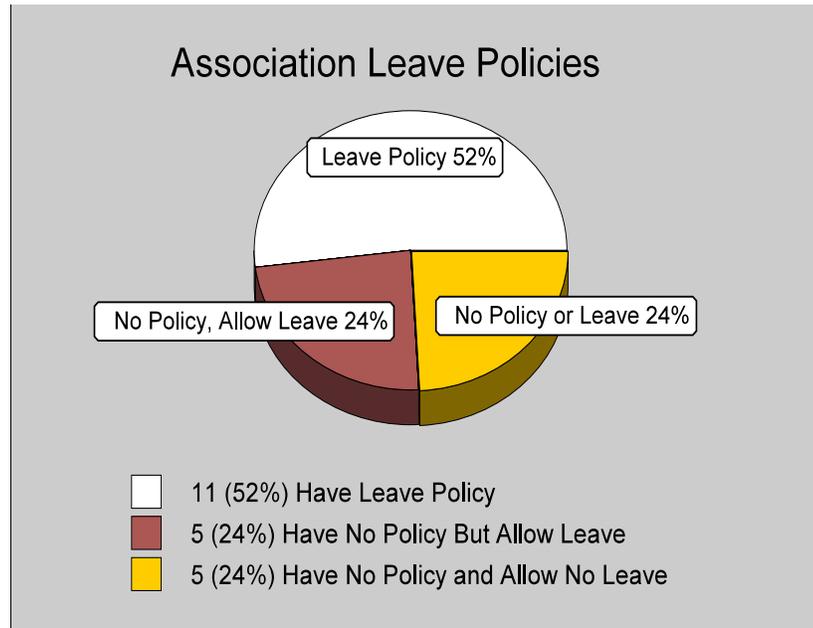
However, as will be shown, numerous school districts have no policy in place, while none of the sampled districts can be shown to have effective procedural controls for assessing whether a benefit is provided by a particular education association activity. As a result, about three-fourths of the sampled districts fail to demonstrate compliance with constitutional requirements when expending public funds for education association activity.

Nearly a Third of Sampled Districts Lack Association Leave Policy

To begin with, school districts granting association leave to teachers should have a guiding policy in place. Only eleven (69 percent) of the 16 school districts allowing leave have a written policy addressing association leave. In addition, some districts without a policy are still granting association leave and funding it to some degree. The figure below depicts the sampled school districts that have and do not have association leave policies.

**Only 69% of
sampled school
districts allowing
association leave
have a policy.**

Figure 1. Nearly a Third of Those School Districts Allowing Association Leave Lack a Policy. Eleven of sixteen districts allowing leave have written policies addressing association leave. The other five districts in the sample of 21 have no policy and allow no leave.



We found five school districts allowing association leave without a policy in place.

In the eleven school districts with association leave policies, nine address leave for the association president and other teachers; two of the eleven districts address only leave for the association president, although these districts still grant leave to other teachers. Five of sixteen districts (24 percent) have no policy addressing association leave but do grant association leave. Finally, five (24 percent) other districts in the sample of 21 have no policy addressing association leave, nor does the district grant association leave time to teachers. Our discussion will focus on the 16 districts which allow association leave, with or without a policy.

Districts Without Policies Inappropriately Allowing Leave

As discussed previously, allowing association leave in the absence of a policy and adequate controls is inappropriate because school districts fail to address the requirement that public funds must be spent in support of the school district. However, five districts allow leave for education association activities with no governing policy.

Districts should document the benefit received from association leave, but have not been doing so.

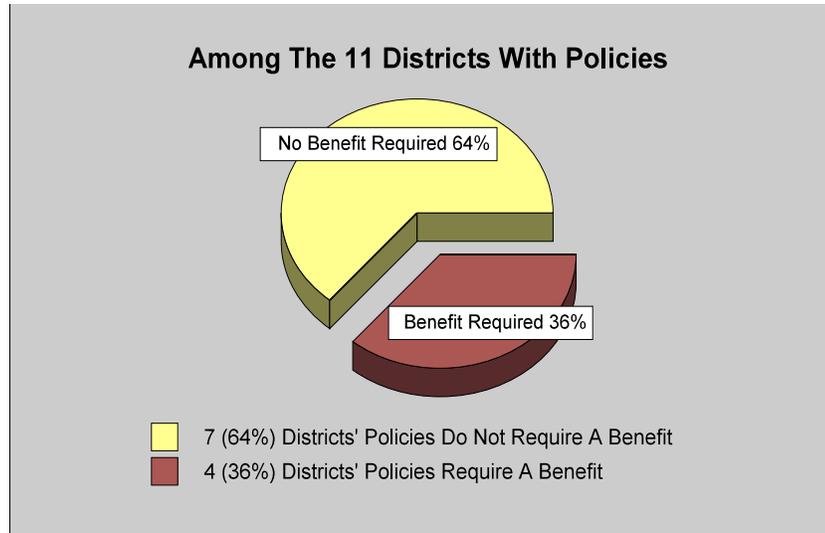
Lack of controls was evident. Informal approval of verbal requests for association leave do not provide any evidence of a determination that the school district will benefit from the leave. For example, administrators in one district stated that association leave happened so rarely they did not need a policy, although fourteen days of leave cost that district \$4,485 last year. In another district, we found leave being taken even though the district business administrator stated that there was an unwritten agreement that education association business would be conducted on a teacher's own time. In a third district, instead of formally requesting association leave, association leadership met with district administrators at a monthly breakfast meeting where undocumented decisions were made regarding association leave. Cost issues will be discussed in more detail in the following chapter of this report.

Existing Policies and Practices Are Inadequate

None of the school districts were able to show adequate controls for determining a benefit.

All of the existing education association leave policies or practices are inadequate to ensure that public funds spent by the school districts for association leave provide a benefit to the district. Of the eleven school districts with policies, only four policies (36 percent) contain language which even mentions that association activities should provide a benefit to the students or district. In practice, all the districts fail to thoroughly review proposed leave to determine whether there is, in fact, a real benefit to the school district. Finally, four additional district policies contain language which is inappropriate because association leave can be approved if it provides a benefit to the education association but not the school district. The figure below illustrates the percentage of policies containing language regarding a benefit to the school district.

Figure 2. Few Policies Require Benefit to the Districts. Only 4 (36%) of 11 districts with a policy on association leave state that a benefit to the school district needs to occur.



The policies fail to identify which association activities provide benefit to districts.

While these few policies state there should be a benefit to the school district, the policies lack sufficient guidance as to what constitutes a benefit. For example, one district’s policy allows “...the periodic release of Association representatives for District and Association activities of value to the District as requested by the Association.” But the policy gives no guidance on which particular association activities should be approved because they are of value to the district.

The Attorney General’s Office legal opinion, discussed above, states that if the school board determines in policy that *particular duties* conducted through the education association directly benefit the district, public funds can be spent on those duties. These particular duties may also directly assist the board in promoting education and the welfare of schools. Public funds could then be used, for example, to pay a substitute teacher who fills in for a teacher absent on specific association-related business which has been deemed a benefit to the district.

Districts Fail to Ascertain That Association Leave Will Provide a Benefit

No policies specify what constitutes a benefit to the school district.

We found that none of the districts fully assess whether or not particular duties actually provide a direct benefit to the district. We were unable to find any policy language describing particular duties which provide a benefit to the school district.

We found one school district with a more developed process for assessing benefit than the others in the sample, but we still have a number of concerns with this policy. This district requires teachers to submit leave request slips for review and approval by the district superintendent that should state how the requested association leave is a benefit to the students and instructional programs of the district. We verified that the leave slips are being submitted.

However, we have some concerns. First, the policy states that “a summary statement relative to the outcome of the leave (benefit to --- School District and/or the Association) must be submitted ... to the Superintendent or designee.” The leave slips we reviewed, however, include no summary statement describing a benefit to the district. In addition, this policy includes a benefit to the education association as justification for granting leave. In fact, six of the 12.5 days paid by the district were for UEA bargaining training. We question whether public funds should pay for teachers to learn bargaining skills for use in negotiating contracts with the district. Finally, in practice, the executive director of the association, not this district’s superintendent, determines whether the association or the district pays substitute teacher costs.

Four Existing Policies Too Inclusive

Four of the eleven districts with policies (36 percent), including the one just discussed, authorize leave when association-related activities benefit *either* the local education association or the district and the students. Including a benefit to the education association violates the legal requirement that public funds be spent for the benefit of the district or students. For example, one district’s policy allows 15 days for duties that “...promote benefits for students, the --- Education Association, and/or the --- School District.” According to this district’s policy, leave requested to perform duties that benefit only the education association can be approved.

Association leave that benefits only the education association must not be supported with public funds.

Some School Districts Violate Existing Leave Policies

Districts are violating their own policies.

Even with the general nature of most existing association leave policies, we found that six (55 percent) of the eleven school districts with an association leave policy violate some of the provisions. These violations involve time given, funding of leave, and request and approval issues.

Two districts authorize more association leave than their policies allow.

Two school districts allow the education association president to exceed the time allocated in policy to conduct association business. In one of these districts, the association leave policy provides twenty days per year for the president to conduct association business, but the president has been given one period each day in addition to the time provided in policy. This practice, authorized by the school principal, cost the district an additional 25 percent of the president's time. The other district's policy releases the president for "two-sixths" time; but, in fact, the president has been released on a full-time basis for years. The concern in this case is not so much with the level of reimbursement (the association pays about two-thirds of the president's compensation) as with the inadequacy of the policy relative to actual practice.

Two other districts do not always seek reimbursement from the local education association.

Two school districts with a policy requiring education association reimbursement for substitute teacher costs lack adequate controls over the reimbursement process. One district has not diligently billed the education association. This practice cost the district roughly \$3,400 last year in substitute teaching expenses alone. The other school district lacks the controls necessary to limit district expenditures to the amount set in policy for association leave. The policy allows \$2,000 to be spent annually for local association activities; last year, the district exceeded this budget by over \$300. According to the business administrator, two other related accounts for UEA and NEA expenses provided the funds to cover the over-expenditure. Since the total budget for all three education associations was not exceeded, the \$300 expense did not cause concern. Thus, local education association expenses in this district can exceed the limit set in policy as long as funds remain in the two related accounts.

Finally, two school districts' policies require teachers to complete leave slips requesting association leave, but in actual practice leave slips are not used. In one district, the association president receives verbal approval from the principal or superintendent to attend the association activity;

Two more districts use verbal approval instead of using policy-required written requests and approvals.

Districts allowing association leave must develop adequate policies governing that leave.

Leave policies must restrict the use of public funds to activities benefitting districts.

leave request slips are not completed. The other district's teachers are supposed to request the leave in writing, but in practice they phone in to activate an automated program that finds substitute teachers to cover for them when they take association leave, instead of requesting the leave ahead of time or directly notifying the school district.

Better Control Over Association Leave Needed

Local school boards and districts need to take several steps to remedy the problems discussed above. First, policies should be established in any district allowing association leave. Second, all association leave policies must require that a benefit to the district be derived from education association activities. Third, procedural controls are essential to ensure that a determination of benefit is made and public funds are spent appropriately. The Legislature should consider directing either the state school board or local school boards to develop policy guidance to remedy the problems we found.

Any school district currently allowing association leave must establish written policy governing such leave. The policy must be approved by the school board as noted in the Attorney General's legal opinion: "If it can be shown to the board's satisfaction that the particular duties have a direct and beneficial effect on district schools...then it would appear that there is a commensurate return for the spending of public funds and a policy of reasonable leave would probably be upheld." Without policies and procedures, districts are spending public funds in support of a non-profit organization without showing that the expenditures benefit the public school system.

When developing association leave policy, local school boards should incorporate guidelines that enable district officials to determine whether a specific activity provides a benefit to the districts. Simply stating that all association activities benefit districts is insufficient. Since district education association representatives spend time in negotiations and bargaining training as well as other association activities, boards must make a determination which activities provide direct benefit to the district, public education system, and/or the students.

Once the local school board has identified which activities benefit the school district, it must direct the district to set forth procedures ensuring a determination of benefit is made at the district or school level. For example, procedures could include requiring written requests in advance for association leave that specifically state the reason for the requested leave. These requests would then be reviewed by the superintendent or designee and approved if the reason for the association leave has previously been sanctioned by the school board.

Finally, it would be wise for local school boards to revisit the association leave policies every few years so that the board remains satisfied that, as quoted above, "...particular duties have a direct and beneficial effect on district schools..." We were told that school boards annually review changes in policy and negotiated agreements, but some of the association leave policies had not changed and, therefore, had not been reviewed for many years. In fact, even some district administrators were unsure what the provisions of their association leave policies included, and a few were unsure whether a policy existed or not. Finally, since some districts have not followed current policies, periodic review would inform the school boards of how well their districts are complying with the revised policies.

Legislature Should Direct SBOE or School Boards To Provide Policy Guidelines

We found that, even when leave policies mention benefit, school districts' practices have failed to determine that a benefit is received. Therefore, we believe the Legislature should consider directing either the SBOE or local school boards to provide better policy oversight; this is needed to ensure that district policies comply with the constitutional requirements for expenditure of public funds. The Legislature may also want to require reporting by the districts to document that the use of public funds for association-related business activities conforms to constitutional requirements.

The Legislature should require the development of guidelines for use by local school boards.

Recommendations

1. We recommend that the Legislature consider:
 - directing the State Board of Education to provide guidelines for school boards and districts on association leave, or
 - directing the local school boards to develop and implement better policy guidelines on association leave.
2. We recommend that this direction should include a requirement for guidelines to help district officials make a determination on which association activities benefit the school districts and which do not.
3. We recommend that local school boards and districts develop and/or amend their association leave policies and procedures to comply with the constitutional requirement that public funds be spent to support the public school system.

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Chapter III

District Funds Subsidize Association Expenses

Last year, sampled school districts spent about \$210,000 without documenting a benefit.

School districts need to put controls in place to ensure that a benefit is indeed received to justify the costs incurred.

The numerous weaknesses in current education association leave policies have resulted in the same 16 school districts (76 percent of the sample) providing public funding in varying amounts for education association-related expenses without documenting that they received a benefit. A conservative estimate of costs incurred by these sampled districts in the last school year without a documented benefit is \$210,000. While the amount of funds involved is not great, the subsidy is problematic because these expenditures do not meet the requirements for the use of public funds laid out in the state constitution. To remedy these problems, the Legislature should require the SBOE or the local school boards to develop guidelines on benefit from association leave and reimbursement of association leave costs.

The expense to a district ranges from the net daily cost for an association member's occasional absence to a case where a district pays nearly 80 percent of the compensation of a full-time association president. In general, school district officials state that their districts receive benefits from allowing association leave, but we were unable to document that this is the case. School districts need to put controls in place to ensure that a benefit is indeed received to justify the costs incurred.

In assessing the amount of public funds used for education association activities by a school district, we looked at the difference between the total daily cost of a teacher taking leave for association activities and any reimbursement received for a substitute teacher. Thus, the net cost for full-time presidents was computed as the difference between total compensation (salary and benefits) and any reimbursement provided by the education association. Net cost for part-time presidents and any other teacher taking leave for association activities was computed as the total daily cost of the teacher (salary and benefits) multiplied by the number of days taken, minus any reimbursement from the education association. An additional, unquantified cost to the district is the educational loss to the students whose regular teacher is out of the classroom.

Most Districts Pay Some Costs Of Association Activities

Three-fourths of the sampled school districts paid for some education association leave costs.

Three-fourths (76 percent) of the sampled school districts paid for some education association-related costs. Each district allowing association leave used public funds in support of such leave. Our sample of 21 school districts found a wide range of practices regarding expenses for education association activities. Costs to the district may be incurred by the association president or by other teachers in the school district. Only five of the 21 sampled districts incurred no costs because they gave no leave.

Fifteen school districts also allowed teachers other than the president to take leave for association business last year.

With association presidents, cost coverage varies widely—from districts providing full-time release from teaching duties to districts requiring that all association duties be conducted outside of contract hours. Fifteen school districts also allowed teachers other than the president to take leave for association business last year.

The level of association reimbursement for full-time presidents is generally specified within the ratified negotiated agreement between the teachers and the school districts. Reimbursement ranged from 22 to 83 percent of total compensation. Reimbursement for part-time presidents' and other teachers' leave, when provided, covered only the cost of a substitute teacher or a lower paid teacher than the president. In all cases, this cost was less than the actual cost of the teacher on leave.

Several School Districts Incurred No Costs, Gave No Leave

In our sample of 21 school districts, five did not allow any leave for association presidents last year and incurred no related costs. We were told by administrators and the association presidents in four of these districts that all association business was conducted outside of contract hours; we assume the same occurred in the other district. These districts are smaller districts in rural parts of the state.

Association Presidents' Costs Subsidized by Public Funds

Costs incurred for association presidents by the 16 school districts is \$164,600 of the \$210,000 total.

All 16 sampled school districts providing association leave paid some of the president's expenses. A conservative estimate of costs incurred by all association presidents in the 16 school districts providing association leave is \$164,600 of the \$210,000 total. Because the districts lack procedures and controls to determine whether or not a benefit was received, we could not verify that the districts received a benefit commensurate with the costs incurred. This issue was discussed earlier in this report.

School districts vary in policy and practice for education association presidents' leave. Our sample of 21 school districts shows that three arrangements exist between school districts and the education associations' presidents. They are the following:

- full-time release from teaching (4 districts)
- part-time release from teaching (12 districts)
- association business done on president's own time (5 districts)

Leave for association presidents varies from full-time to no time given.

The majority of costs were incurred by four larger school districts with full-time association presidents.

Some School Districts Allow Full-time Release for Association Presidents

We found that unreimbursed costs to the districts with a full-time association president ranged from 17 to 78 percent of the president's total compensation. The figure below provides the data on these districts.

Figure 3. Four Large School Districts With Full-time Association Presidents Split Costs With Education Associations.

Districts subsidized the costs for full-time release of association presidents in amounts ranging from \$8,400 to \$45,700.

Districts	President's Salary & Benefits	Association Reimbursement	Net Cost to District	% Paid By District
A	\$58,581	\$12,848	\$45,733	78%
B	64,837	24,530	40,307	62
C	79,885	53,283	26,602	33
D	48,751	40,343	8,408	17
Total	\$252,054	\$131,004	\$121,050	48%

In School District A, the district paid 78 percent of the association president's salary and benefits while the local association reimbursed the district for just 22 percent of the president's total costs. In District B, the district covered 62 percent and the association reimbursed 38 percent of the president's total costs. District C paid 33 percent of the president's total compensation and received 67 percent back, and in District D, the district covered 17 percent while the association reimbursed the district for 83 percent of the president's total costs.

Some School Districts Give Part-time Release for Association Presidents

In twelve sampled school districts, the association president still teaches but is allowed a predetermined amount of release time to conduct education association business. The release time allowed for association presidents in our sample ranges from six days per contract year to half-time release. The districts either incurred all costs or received reimbursement for the cost of a substitute teacher or a lower paid teacher than the president.

To illustrate, one school district's policy allows the association president to take 20 days per year for association business. The school district requires the association to reimburse the district for the cost of a substitute teacher for 15 of the 20 days, while the school district covers the other five days completely. In addition, the association president (a

Districts' unreimbursed costs for a full-time association president ranged from 17 to 78% of total compensation.

Release for part-time association presidents ranges from six days per contract year to half-time release.

secondary teacher) has consistently been given one period a day by the school principal to conduct association business. This additional allowance of time is not addressed in district policy and accounted for about 25 percent of the teacher's total contract time last year. The district received no reimbursement from the association for this additional time, which cost the district about \$13,840.

This year's association president in the same school district teaches in an elementary school. Since an elementary school teacher's day is not broken up into periods, the district agreed to hire a teaching technician to assist the association president in the classroom for two hours a day to allow the association president to conduct association business. Half of the technician's salary is paid by the district, while the other half is paid by the education association.

In another school district, the association president is released from teaching duties for fifty percent of the time to conduct education association business. The school district paid the president's salary and benefits and was reimbursed by the education association at the rate of a lower paid half-time teacher. Net costs to the district for the association president were \$15,205 for the 2000-2001 school year without a determination of benefit to the district.

Other Teachers' Association Activities Also Subsidized by Public Funds

In addition to costs incurred for education association presidents, school districts incur costs for other teachers' association activities as well. Fifteen of twenty-one sampled school districts (71.4 percent) allow other teachers to take leave for association-related activities. Half the sampled districts spent about \$45,400 in unreimbursed costs for teachers other than the association president. Again, we were unable to document that the benefit received was commensurate with the costs incurred because districts lack procedures and/or controls to determine benefit.

Due to time constraints, we were unable to ascertain all costs of association-related activities for every teacher in all districts in our sample. However, in one of the larger districts in the state, the net cost for association-related activities for other teachers was \$18,210, while the net cost for the full-time association president was \$8,408. Data gathered

Half of the sampled districts spent about \$45,400 in unreimbursed costs for teachers other than the association president.

Some districts were unable to provide complete documentation, so association costs to these districts is unknown.

Public funds were also spent on association activities beyond the costs incurred for leave.

Administrators feel benefits are derived, but districts lack procedures to assess whether a benefit is actually provided.

from more than half of the sampled districts indicates that the net cost to the 15 districts was \$45,400 for other teachers participating in association-related activities.

Some school districts were unable to provide complete documentation on association leave, so total costs in these districts is unknown. This lack of control concerns us because it appears the districts are unaware of the total amount spent on association-related activities. Some districts did not require the submission of written requests for association leave, raising the question of accountability for those expenses. Another district's staff were unable to locate the leave forms for every teacher who took leave for association-related activities, and so they were unable to tell us how many leave days those particular teachers had taken for association-related activities. We believe that better controls are needed to ensure that public funds appropriated to school districts are spent in accordance with legal requirements.

Public funds were also spent on association-related activities beyond the costs described above. One school district provides up to \$1,500 in travel expenses for a teacher to attend the National Education Association (NEA) conference every summer. Several school districts allowed teachers on negotiating committees to negotiate with the district on contract time with no loss of pay and without seeking reimbursement from the education association. We believe that guidelines need to be developed on which activities benefit or support the school district; the guidelines should then be implemented by those districts spending public funds for association-related expenses.

Districts Believe Benefits Are Received

In our discussions with school district officials, virtually all stated that the districts received benefit from the education association president's activities. However, as previously discussed, districts lack procedures to determine whether that benefit occurs or how to limit district expenses to only those activities that do provide a benefit.

All but one district business administrator we interviewed felt that the education association's activities provide benefits to the districts. The benefits they listed included the following:

- improved levels of communications with teachers
- having a liaison between the district and teachers
- early conflict resolution
- surveying teachers to gauge opinions on issues like insurance
- teacher representation on district committees
- training
- negotiating with a representative instead of all of the teachers

A few districts indicated that the education association president helps with teacher evaluations. Some districts listed activities that others did not, such as negotiations and negotiation training. In our view, the association president has a responsibility to represent the teachers in contract negotiations, not the district; thus, the benefit to the school district in this activity seems questionable.

In school districts with association-related leave policies, a few policies made blanket statements that association leave *is* a benefit to the district. Most district administrators we interviewed acknowledged there is no process in place to determine which association activities provide a benefit to the school system. In general, though, most asserted that the education association president does provide the school district with some benefit. Our concern is that the request and approval process for association leave is often informal, occurs verbally, and has no guidelines in place to determine what leave should be approved. Better procedures on association leave and the costs thereof need to be put in place to ensure that school districts provide evidence that incurred expenses have indeed provided them with some benefit.

Guidelines Needed for Association Leave

To address the concerns described above, guidelines are needed in education association leave policies to ensure that public funds are spent in support of the public school system. Specifically, school districts allowing association leave should include in their policies and procedures a method of determining whether the requested leave provides a benefit to the school district. Additionally, the appropriate level of reimbursement needs to be determined for association activities not shown to give benefit to the districts. As discussed previously, we believe the Legislature needs

Most district administrators acknowledged there is no process in place to determine which activities provide a benefit to the school system.

Guidelines are needed in association leave policies to ensure that public funds are spent in support of the public school system.

to consider directing the SBOE or the local school boards to develop guidelines to be implemented by the school districts.

The Legislature may want to require the development of association leave policy guidelines.

If the SBOE is directed to take the lead in developing association leave rules, this role may ensure some consistency among the school districts in meeting the requirements of the law. As previously noted, we saw a wide variety of practices, most frequently one in which districts failed to document that they derived any benefit from the costs of association leave, though district officials felt such benefits were received. Also, a number of school districts use informal approvals of leave and others simply assume all association activities provide benefit to the district. For these reasons, we believe the Legislature needs to require the development of association leave guidelines to better guarantee that the public's interests are safeguarded.

The Legislature should also require that guidelines address the level of reimbursement to be provided by the education association.

The required guidelines should also address the level of reimbursement that should be provided by the education association when a teacher takes leave for education association activities that do not benefit the district. This may entail obtaining a legal opinion on what the *Utah Constitution* requires. Currently, reimbursement is provided for the cost of the substitute teacher, not the actual daily cost of the teacher on leave. The daily contract cost of teachers from our sample ranged as high as \$320 (salary and benefits), while the average substitute teacher cost was \$55. Beyond the quantified costs, there is an unquantified education loss to the students when the regular teacher is absent. Thus, the real cost to the district is greater than the cost of a substitute teacher.

Guidelines need to be specific in defining what constitutes a benefit to the school districts.

The Legislature should direct that guidelines be specific in defining what constitutes a benefit to the school districts. Local school boards should be directed to develop policies where needed, review existing policies, and add requirements for assessing whether a benefit to the district will be provided; these requirements will give district officials better direction on when to pay for association leave and when the education association must bear the costs. As an example, we question whether paying for teachers to attend contract negotiations training should be seen as a benefit to the school district; association representatives have a responsibility to negotiate for the best contract package for their membership, not for the best interests of the school district.

Recommendations

1. We recommend that the SBOE request a legal opinion on which cost should be reimbursed (the actual cost of the teacher or the cost for a substitute teacher) when association leave benefits the education association and not the school district.
2. We recommend that school districts develop meaningful review and approval procedures, with cost monitoring built in, to ensure association leave time is only being paid out of district funds when it has been shown to benefit the district.

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Chapter IV

UEA Staff Are Eligible For Some State Benefits

In response to a request from legislators, we determined that the employees or administrative staff (not teachers or local representatives) of the Utah Education Association are currently eligible to participate in the Utah Retirement System (URS) and the Public Employees Health Plan (PEHP). Officials at the URS report that the UEA is a participating employer in the URS. Though eligible for PEHP, the UEA has chosen another health insurance provider. In contrast to Utah, most of the other states we contacted do not allow non-profit organizations to participate in their state retirement or health insurance systems.

***Utah Code* Allows UEA Staff Participation in URS**

The *Utah Code* includes the UEA as an eligible participant in the retirement system. URS and PEHP confirmed the eligibility and indicated that the UEA participates in the URS but not PEHP.

In the Utah State Retirement Act (*Utah Code*, Title 49), the definition of eligible organizations includes organizations such as the UEA. Specifically, *Utah Code* Subsection 49-3-204(3)(a) states that “any organization or agency supported in whole or in part by state public funds, which prior to application is not covered by this chapter, may, by resolution of its governing body, apply for admission to the system.” The Act defines public funds as

those funds derived, either directly or indirectly, from public taxes or public revenue, dues, or contributions paid or donated by the membership of the organization used to finance an activity whose objective is to improve, on a nonprofit basis, the governmental, educational, and social programs and systems of the state or its political subdivisions. (49-3-103(10))

We also spoke with administrators at URS and PEHP regarding the eligibility and participation of UEA staff in the state’s retirement system.

UEA staff participate in the URS but not in PEHP.

The legal definition of eligible organizations includes an agency supported in part by public funds.

Public funds include dues paid to a non-profit organization whose objective is to improve education programs.

A wide variety of employers participate in the state's retirement system.

Non-profit organizations other than the UEA are members of the URS.

URS officials stated that the UEA does contribute to the retirement system and the association is included in the education employers' pool for actuarial purposes. This is a separate actuarial pool from state employees in general. PEHP officials indicated that although they made a presentation to UEA about enrolling in PEHP, UEA chose to contract with another health insurance provider and, thus, is not a participating member.

We reviewed an annual report from the URS and noted that a wide variety of organizations are eligible to participate in the state retirement system. These include the following:

- state government and other employers, such as Utah Housing Finance Authority and Workers Compensation Fund
- school districts, colleges and universities, and education-affiliated employers, including the Utah Education Association and the Utah School Employees Association
- counties and county fire districts
- cities and towns
- other governmental entities, including various special service districts, housing authorities, the Utah Public Employees Association, associations of government

Public entities, non-profit corporations, and quasi-public agencies are among the employers participating in the URS. The annual report indicates that a total of 392 employers participate in the various public retirement systems available in Utah.

Nearby States Exclude Non-profit Corporations from Participation

Most nearby states do not allow education association staff to participate in the states' retirement and/or public health insurance plans. We contacted six western states to determine how Utah's situation compares to neighboring states. As shown in Figure 4, most of the states we talked to do not allow education association employees to participate in either system.

Figure 4. Most Western States’ Education Associations Are Not Eligible for Public Retirement or Health Insurance Benefits.

Staff, not members, of these states’ education associations, as employees of a non-profit corporation, are not able to enroll in the public retirement system or public health insurance plan.

State	Eligible for State Retirement	Eligible for Public Health Insurance Plan
Arizona	no	no
Colorado	no	no
Idaho	yes	no
Nevada	no	no
Oregon	no	no
Wyoming	yes	yes
	66% not eligible	83.3% not eligible
Utah	yes	yes

Other state’s systems typically are not open to non-profit corporations.

All four of the states which do not allow their education associations to participate in either system indicated this is because their systems are not open to non-profit corporations. In Wyoming’s case, the Legislature passed legislation specific to its education association, designating it as a public employer. As such, the education association does participate in Wyoming’s state retirement and health insurance programs.

Participation Is a Policy Decision

In summary, a number of non-profit corporations are currently legally enrolled in the URS. Though different from the present practices in nearby states, Utah’s retirement system does include this type of entity. Options are available to the Legislature, including:

- continue to allow non-profit organizations to participate in the URS
- consider amending the *Utah Code* to reduce the types of organizations eligible for participation

UEA staff legally participate in URS; any change would be a policy consideration.

Any changes to the eligibility of participants in the state retirement and health insurance systems are policy issues to be assessed and determined by the Legislature.

Recommendation

- I. We recommend the Legislature revisit the issue of eligibility for public retirement and health plans with two options in mind:
 - make no changes in current eligibility
 - re-examine existing law to assess whether changes are desirable.