October 22, 1965

TO: Members, Board of Trustees

FROM: Robert C. Rockwell

SUBJECT: Policy on Filing Governing Employer-Employee Relations

I am sending you all the material that is available regarding the policy on employer-employee relations. This material includes a copy of Education Code sections 13060-13086, several pages of reaction and comment from the CTA which may be valuable background material to you as you consider the various passages, and a copy of the proposal which Mr. Curiel has approved. This is the proposal which I described to you at Thursday's Board meeting, with the exception of the amendment which was requested.

Mr. Curiel did not approve the exact wording suggested by the Board pertaining to the majority of the members of an organization having to favor filing of that organization for recognition. He did suggest an alternate proposal which you will find in the last reference of paragraph 3.12, beginning with "and that the filing is made..." His reason for not accepting the proposal was based on the fact that he did not believe it was the Board's prerogative to tell an individual organization how it should determine its method of filing.

I hope that this material will be helpful and that next Friday we will be able to adopt a policy that is fair to both the Board and the employees of the District.

I am sorry that I was unable to have copies of the proposal prior to our last Board meeting.

Enc: It
3 enclosures
7. **Required Audit of Employee Organization Membership**

7.1 In conformity with Section 13082 regarding "The right of the employees to refuse to join or participate in the activities of employee organizations". . . , each member employee has the right to either identify himself as a participating member or abstain from identifying himself. If he abstains, then he shall not be counted as a member of the organization for purposes of equivalent votes on the negotiating council.

7.2 If an employee is a member of more than one employee organization he has the right to identify himself with one organization for the purpose of participating in their procedures for representation on the negotiating council. The employee also has the right as specified in 7.1 to abstain from identifying himself with any organization.

7.3 The statements of the employees regarding identification shall be registered with an independent auditor who shall then compile the organizational memberships. Each list of organizationally compiled voluntary statements shall then be given to appropriate officers of each organization for the use of the organization in determining their assigned member representatives. The number of representatives determined by formula 6.30.
1. **Purpose of Rules and Regulations**

1.1 It is the purpose of these rules and regulations to implement the provisions of Article 5 (commencing with Section 13080), Chapter 1 of Part 2 of the Education Code as such provisions relate to organizations of employees of this district.

1.2 The purpose of Article 5, as stated in Section 13080, is "to promote the improvement of personnel management and employer-employee relations within the public school systems in the State of California by providing a uniform basis for recognizing the right of public school employees to join organizations of their own choice and be represented by such organizations in their professional and employment relationships with public school employers and to afford employees a voice in the formulation of educational policy. Nothing contained herein shall be deemed to supersede other provisions of this code and the rules and regulations of public school employers which establish and regulate tenure or a merit or civil service system or which provide for other methods of administering employer-employee relations. This article is intended, instead, to strengthen tenure, merit, civil service and other methods of administering employer-employee relations through the establishment of uniform and orderly methods of communication between employees and the public school employers by which they are employed."

2. **Definitions**

2.1 "Employee organization" means any organization which include employees of this district.

2.2 "Certificated employee organization" means any organization of certificated employees which has as one of its primary purposes representing such employees in their relations with the district.

2.3 "Member" of an employee organization means a person

   2.31 Who is an employee of the district listed in the organization's official records as a member in good standing; and

   2.32 Who has paid the customary dues for full membership standing or has signed an authorization for payroll deduction of dues which is in the possession of the appropriate district officer; and

   2.33 Who has an equal right with all members to vote in the organization in which membership is held.

2.4 "Certificated employee" means any person employed by the district who holds a valid credential issued under the authority of the California State Board of Education, and who is employed in a position requiring such credential.
3. **Verification of Employee Organizations**

3.1 Any organization desiring to be recognized as an employee organization for the purpose of representing its members in this district shall register its intent by submitting all of the following information to the superintendent:

3.11 The name and mailing address of the organization including a complete list of the officers and their names, titles, and mailing addresses.

3.12 A statement certified as true by the president or secretary that the organization includes in its membership employees of this district and that it has as one of its primary purposes the representation of such employees in their relations with the district, that the organization permits membership without regard to race, color, creed, or national origin, and that the filing is made in accordance with the employee organization's rules and regulations as provided in its constitution or by-laws.

3.13 Copies of the articles of incorporation and by-laws, or constitution and by-laws, and any other written regulations or rules governing the organization and its membership.

3.14 The name and mailing address of each area, state, or national association or organization with which it is directly affiliated.

3.15 A notarized sworn statement setting forth the number of employees of the district who are members in good standing of the organization on the date the statement is made.

3.2 The Superintendent, upon receiving the information required by the foregoing section, shall determine whether or not the organization qualifies as an employee organization as defined in section 2.1 and shall report his decision to the organization within one week after receiving the documents. At the next meeting of the governing board the Superintendent shall certify that the information has been received and shall submit his recommendation as to the recognition of the organization.

3.3 Information required in sections 3.11 to 3.14 shall be kept current by filing with the Superintendent supplementary statements or copies of amendments.

3.4 Recognition of an organization shall expire on October 31 of each year unless renewed by providing to the Superintendent:

3.41 All of the documents set forth in sections 3.11 to 3.15 inclusive not later than the first day of the seventh school week.

3.42 Not later than the first day of the seventh school week a notarized sworn statement setting forth the number of employees of the district who were members in good standing of the organization on the first day of the sixth school week.

4. **Establishment of Negotiating Council**

4.1 There is established a Negotiating Council in the Santa Barbara Junior College District composed of nine members representing certificated employee organizations as defined in section 2.2.
4.2 Each certificated employee organization shall be entitled to appoint such number of members of the Negotiating Council as bears as nearly as practicable the same ratio to the total number of members of the Negotiating Council as the number of members of the certificated employee organizations bears to the total number of certificated employees of the district who are members of the certificated employee organizations.

5. Purpose and Scope of Negotiating Council

5.1 Through the Negotiating Council the governing board of this district, or its designated administrative officer, shall meet and confer with representatives of certificated employee organizations upon request with regard to all matters relating to employment conditions, employer-employee relations, all matters relating to the definition of educational objectives, the determination of the content of courses and curricula, the selection of textbooks, and other aspects of the instructional program to the extent such matters are within the discretion of the governing board under the law.

5.2 The purpose of the Negotiating Council is to provide a single channel through which certificated employee organizations, whether or not they are entitled to appoint representatives to such council, shall exercise the rights generally conferred upon them in sections 13083 and 13085 of the Education Code.

5.3 These rules and regulations shall not be construed to prevent any employee from appearing in his own behalf in his employment relations with the district, nor shall these rules prevent any employee organization from appearing before, or making proposals to the governing board in a public meeting in accordance with procedures established by the board for the conduct of its meetings. In order that the application of this section may not be used to defeat the intent of sections 1.2, 5.1, and 5.2, the governing board shall give the Negotiating Council an opportunity to consider such proposals originating with a certificated employee organization prior to taking action.

5.4 It is not the intent of this section to prevent the Superintendent or his administrative staff from appointing committees, convening staff meetings, and meeting with individual employees in the normal exercise of their administrative duties.

6. Determination of Representation on Negotiating Council

6.1 In order to be considered for representation on the Negotiating Council, an organization must qualify as a certificated employee organization and have submitted the documents provided in sections 3.11 to 3.14 not later than the first day of the seventh school week.

6.2 Not later than the first day of the seventh school week each certificated employee organization seeking representation on the Negotiating Council shall file with the Superintendent the statement provided in section 3.15 except that the information shall uniformly state the number of names in each such organization on the first day of the sixth school week.

6.3 The number of representatives, if any, on the Negotiating Council to which each qualified organization is entitled shall be determined by applying the following formula:
6.31 In the application of the formula the calculation of the number \( R \) shall be carried to five decimals.

6.32 Each organization will be allocated such number of representatives as shown by the whole part of the number \( R \). Remaining positions, if any, shall be allocated on the basis of one each to the same or other organizations having the highest decimal portions of the number \( R \) in descending order.

6.4 Not later than the third day of the seventh school week the Superintendent shall notify each certificated employee organization of the number of representatives to which it is entitled by application of the formula.

6.5 On or before October 31 each certificated employee organization entitled to representation on the Negotiating Council shall select its representatives and file such names with the Superintendent. The filing of these names does not prevent the employee organization from appointing alternates.

6.6 The Negotiating Council shall have its organization meeting not later than November 10. In order to facilitate the calling of this meeting the Superintendent shall prepare a list of the council members and provide copies to all certificated employee organizations.

7. **Required Audit of Employee Organization Membership**

7.1 An audit shall be made of the statements of verified membership in employee organizations submitted pursuant to sections 3.15, 3.42, or 6.2 of these rules and regulations. Such audit shall be conducted by an independent auditor appointed and compensated by the governing board of this district.

7.2 If the audit determines that an employee is a member of more than one employee organization then the auditor shall attribute to each organization of which such employee is a member a fractional membership in proportion to the number of such organizations so that the total of the fractions shall add to one.

7.3 If any employee organization shall deny to the auditor access to its records, then the auditor shall attribute to such organization only those certificated employees who have authorized payment of dues to the organization by payroll deduction.

7.4 The auditor shall establish reasonable precautions to maintain as confidential all information and records. Neither any member of the governing board or the district staff nor any member or employee of an employee organization shall have access to the names of employees who are members of more than one organization or the membership lists or records used in making the determination.
7.5 The audit of statements of verified membership submitted pursuant to sections 3.42 or 6.2 shall be completed and submitted to the Superintendent no later than December 1. Any changes in representation on the Negotiating Council shall be reported to the organizations by December 5. Organizations shall make the necessary changes in their representatives effective at the next meeting of the council called subsequent to December 5.

7.6 The number of members of each employee organization reported to the Superintendent by the auditor shall be considered final and shall supersede all other statements as to number of members.

8. Rights and Privileges to Organization of Employees

8.1 In addition to all other rights granted in these rules and regulations, recognized employee organizations may participate in the services provided in this section.

8.2 An organization of employees of this district which does not meet the definition of employee organization may participate in the services provided in this section by submitting to the Superintendent the documents described in sections 3.11, 3.13, and 3.14.

8.3 The following services are provided for organizations described in sections 8.1 and 8.2:

8.31 Use of school mail and bulletin board for official organizational communications in accordance with district procedures.

8.32 Reasonable access to teachers at their place of assignment when such access will not interfere with assigned duties of teachers.

8.33 Permission to use school facilities, when not otherwise used for educational purposes, without charge for routine organization meetings. The district reserves the right to require application for Civic Center permit in accordance with board rules and regulations.

8.34 Furnishing to the organizations by the district non-confidential information relating to employer-employee relations, salaries, budget, district finance, and other data appropriately of interest and concern to organizations.

8.35 A listing of organization and principal officers in the district directory.

9. Designation of Administrative Officer

9.1 Education Code section 13085 and section 5.1 of these rules provide in pertinent part that "the governing board, or such administrative officer as it may designate, shall meet and confer with representatives of employee organizations..." It is herewith provided that the Superintendent shall be designated administrative officer.

9.2 In the absence of the Superintendent, the Administrative Dean, Business Services, shall be the designated administrative officer. In carrying out the duties of designated administrative officer provided in these rules and regulations, the Administrative Dean, Business Services, shall be construed
as having all the authority accorded to the Superintendent in section 9.1 for the implementation of these rules and regulations.

10. Meetings Between the District and the Negotiating Council

10.1 The designated administrative officer provided in section 9 shall meet and confer with the Negotiating Council on request. Such meeting shall be held within ten days after the request at a time and place mutually acceptable to both parties.

10.2 The request provided in section 10.1 shall be in writing and signed by the chairman of the Negotiating Council or by a majority of the members of such council. It shall be delivered to the designated administrative officer either personally or by mail, and shall set forth the matters which the council wishes to present at the meeting. The request shall also contain suggested dates for the proposed meeting, but it is expected that the chairman of the council and the administrative officer will confer informally for the purpose of establishing a mutually acceptable time, date and place.

10.3 If the designated administrative officer desires to initiate a request for a meeting with the Negotiating Council, he shall address such written request to the council chairman and may provide copies to each member of the council. Such request should set forth the matters which the officer wishes to present together with suggested dates.

10.4 The designated administrative officer shall appoint a recorder to serve at district expense at each meeting between the Negotiating Council and such administrative officer. Each member of the council and each member of the governing board shall be entitled to receive a copy of the proceedings prepared by the recorder.

10.5 It is expected that the Negotiating Council will adopt reasonable procedures for the consideration of proposals submitted by the designated administrative officer and by organizations not directly represented by membership on the council.

10.6 The designated administrative officer and the Negotiating Council shall each be entitled to have present such consultants as each shall deem necessary, and such consultants shall be entitled to make presentations at the direction of their sponsor.

11. Review

In those few instances where major disagreement exists, the governing board, designated administrative officer, and employee organizations have an obligation to review and reassess in good faith all available information and proposals, and seek additional information, if needed, in an effort to arrive at an acceptable decision.

Superintendent's Office
Santa Barbara City College
10-22-65/1t
Section 13011 is added to the Education Code, to read:

13011. Whenever, as a result of any school district unification proceeding all of the territory under the jurisdiction of county superintendent of schools is included in a single unified school district and the maintenance of any school or classes or the performance of any function theretofore under the jurisdiction of the county superintendent of schools is assumed by such unified school district, the inclusion shall, with respect to any employee, whether in a position requiring certification qualifications or in a position not requiring certification qualifications, who was theretofore employed by the county superintendent of schools in connection with such school, class, or function, be deemed to be the inclusion of a school district in the unified district. The rights of such an employee to employment with the unified district shall be governed by the laws defining the rights of employees of a predecessor school district included within a unified school district to continue in employment as employees of the including unified school district. (Ch. 1026)

Section 13012 is added to said code, to read:

13012. The governing board of a school district, which does not employ persons charged with school-community duties of counseling students and parents or guardians in their homes, may contract with any qualified social service agency or organization to provide the services, on a part-time or full-time basis, of qualified social workers as counselors in schools and in the homes of pupils. The State Board of Education shall adopt rules and regulations for the implementation of this section, but such social workers shall not be required to hold credentials or certification documents otherwise required under this code for service in the public schools. As used in this section 'school district' means any of the following school districts, but does not include any other school district:

(a) A unified school district having an average daily attendance of less than 1500.

(b) A high school district having an average daily attendance of less than 300.

c. An elementary school district having an average daily attendance of less than 801. (Ch. 1648)

Section 13055 of the Education Code is amended to read:

13055. Any person employed by a school district, including a district having the merit system as outlined in Article 5 of Chapter 3 of this division, or by a county superintendent of schools in a position in which 50 percent or more of his duties regularly performed during the school year consist of rendering service in directing, coordinating, supervising or administering any portion or all of the types of functions listed below in this section shall hold a valid teaching or service credential issued or renewed pursuant to this code. Those persons so employed before, on, or after the effective date of this section but prior to July 1, 1963, who held or held valid credentials during the entire period of such employment shall be deemed to be or to have been certificated employees for the entire period of such employment. On and after July 1, 1963, no school district shall employ a person to render such service unless a person holds a valid teaching or service credential, and also holds a supervision credential or an administration credential authorizing the particular service. Any person who was employed by a district on or before February 1, 1963, to perform any of the services designated by the State Board of Education to require a supervision or administration credential, may continue to perform such services without possessing the credential otherwise required as long as he remains continuously employed to perform the same services in that district in which he was employed on that date, or is continuously employed to perform the same services in a district which results from a reorganization involving the same district. The State Board of Education shall, on or before July 1, 1963, determine whether a supervision credential or an administration credential shall authorize the service of directing, coordinating, supervising or administering all or any portion or portions of the types of functions listed below in this section. On or before such date the board shall establish standards for and issue credentials authorizing such service if such service is not authorized by an administration or supervision credential which the board is authorized to issue under other provisions of law in effect on such date.

The list of functions as follows:

(a) The work of instructors and the instructional program for pupils.

(b) Educational or vocational counseling and placement of students or teachers.

(c) Planning courses of study to be used in the public schools of the state.

d. The selection, collection, preparation, classification or demonstration of instructional materials of any course of study for use in the development of the instructional programs in the schools of the state.

(e) The examination, selection, in-service training, or assignment of teachers, principals or other certificated personnel involved in the instructional program.

(f) Research connected with the evaluation and efficiency of the instructional program.

(g) The school health program.

(h) Activities connected with the enforcement of the laws relating to compulsory education, coordination of child welfare activities involving the school and the home, and the school adjustment of pupils.

(i) The school library services.

(j) The preparation and distribution of instructional materials.

(k) The in-service training of certificated personnel.

(l) The interpretation and evaluation of the school instructional program. (Ch. 1928)

Section 13058.1 is added to said code, to read:

13058.1. Any person who, on June 30, 1965, was serving in a position requiring certification qualifications pursuant to the provisions of subdivisions (a), (b) and (e) of Section 13055 in an immediately prior to the effective date of this section, shall be deemed to be an employee in a position requiring certification qualifications for as long as he holds such position after the effective date of this section and such position shall be deemed to be a certificated position for as long as such person holds such position. (Ch. 1928)

Section 13059 is added to said code, to read:

13059. Any person who, on the effective date of this section, is serving in a position as business manager and has been assigned a title listed in Section 937 shall be deemed to be an employee in a position requiring certification qualifications for as long as he holds such position after the effective date of this section.

On and after the effective date of this section no person employed in a position as business manager shall be required to hold a business manager's certificate and no title assignment may be construed to require certification qualifications for any such position or related position.

Notwithstanding the prohibition contained herein a governing board may designate the position as one requiring certification qualifications if a substantial portion of the duties to be performed are outside the normal scope of a school business manager's position and are to encompass services directly related to the instructional and educational program of the district or if it declares the holder of the position as the chief assistant to the district superintendent and who is to be designated as acting superintendent during the absence of the district superintendent. (Ch. 1829)

Article 5 (commencing with Section 13080) is added to Chapter 1 of Division 10 of Part 2 of the Education Code, to read:

(All sections in this Article are added by Chapter 2041)

Article 5. Employee Organizations

13080. It is the purpose of this article to promote the improvement of personnel management and employer-employee relations within the public school systems in the State of Cali-
foreign by providing a uniform basis for recognizing the right of public school employees to join organizations of their own choice and be represented by such organizations in their professional and employment relationships with public school employers.

Employee organization means any organization which includes employees of a public school employer and which has as one of its primary purposes representing such employees in their relations with that public school employer.

"Public school employer" means a school district, a county board of education, a county superintendent of schools, or a State board of education of a State which has a merit system as provided in Chapter 3 of this division.

"Public school employee" means any person employed by any public school employer excepting those persons elected by popular vote or appointed by the Governor of this state.

Except as otherwise provided by the Legislature, employees of a public school employer shall have the right to form, join and participate in the activities of employee organizations of their own choosing for the purpose of representation on all matters of employer-employee relations. Public school employees shall also have the right to refuse to join or participate in the activities of employee organizations and shall have the right to represent themselves individually in their employment relations with the public school employer.

Employee organizations shall have the right to represent their members in their employment relations with public school employers. Employee organizations may establish reasonable restrictions regarding who may join and may make reasonable provisions for the dismissal of individuals from membership. Nothing in this section shall prohibit any employee from appearing in his own behalf in his employment relations with the public school employer.

The scope of representation shall include all matters relating to employment conditions and employer-employee relations. In addition, shall meet and confer with representatives of employee organizations representing certified employees upon request with regard to all matters relating to employment conditions and employer-employee relations, and in addition, shall meet and confer with representatives of employee organizations representing certified employees upon request with regard to all matters relating to the definition of educational objectives, the determination of the content of courses and curricula, the selection of textbooks, and other aspects of the instructional program to the extent such matters are within the discretion of the public school employer or governing board under the law. The designation of an administrative officer as provided herein shall not preclude an employee organization from meeting with, appearing before, or making proposals to the public school employer at a public meeting if the employee organization requests such a public meeting.

In the event there is more than one employee organization representing certified employees, the public school employer or governing board thereof shall meet and confer with the representatives of such employee organizations through a negotiating council with regard to the matters specified in this section, provided that nothing herein shall prohibit an employee from appearing in his own behalf in his employment relations with the public school employer. The negotiating council shall not have more than nine nor less than five members and shall be composed of representatives of those employee organizations who are entitled to representation on the negotiating council. An employee organization representing certificated employees shall be entitled to appoint such number of members of the negotiating council as bears as nearly as practicable the same ratio to the total number of members of the negotiating council as the number of members of the employee organization bears to the total number of certificated employees of the public school employer who are members of employee organizations representing certificated employees. Each employee organization shall adopt procedures for selecting its proportionate share of members of the negotiating council, provided that such members shall be selected no later than October 31 of each school year. Within 10 days after October 31, the members of the negotiating council shall meet and select a chairman, and thereafter such negotiating council shall be legally constituted to meet and confer as provided for by the provisions of this article. Employee organizations shall exercise the rights given by Section 13083 through the negotiating council provided for in this section.

Public school employers and employee organizations shall not interfere with, intimidate, restrain, coerce or discriminate against public school employees because of their exercise of the rights under Sections 13082 and 13083.

A public school employer shall adopt reasonable rules and regulations for the administration of employer-employee relations under this article.

Such rules and regulations shall include provision for verifying the number of certificated employees of the public school employer who are members in good standing of an employee organization on the date of such verification, and where a negotiating council is required by Section 13085, for the size of the negotiating council. The public school employer may require an employee organization to submit any supplementary information or data considered by the public school employer to be necessary to the verification of the number of members in an employee organization and such information or data shall be submitted by the organization within 10 days after request, provided that membership lists, if requested, shall not be used as a means of violating Section 13086. In addition, such rules may include provisions for (a) verifying the official status of employee organization officers and representatives, (b) access of employee organization officers and representatives to work locations, (c) use of official bulletin boards and other means of communication by employee organizations, (d) furnishing complete and accurate nonconfidential information pertaining to employment relations to employee organizations and (e) such other matters as are necessary to carry out the purposes of this article.

The enactment of this article shall not be construed as making the provisions of Section 923 of the Labor Code applicable to public school employees.

Section 13119 of the Education Code is amended to read:

Section 13123 of the Education Code is amended to read:

The regulations adopted by the State Board of Education prescribing the minimum standards for a provisional credential shall give consideration to training and to teaching experience in California schools.

It is not the intent of the Legislature to exclude from credentials applicants who have given satisfactory service in the schools of this state in positions requiring certification qualifications.