|  |  |
| --- | --- |
| **5.13** | **Collective Bargaining *(Adopted 3-7-2016)***  East Central College recognizes the right of eligible members to organize and bargain collectively. Through representatives of their own choosing subject to the procedures set forth in this section and in accordance with applicable Missouri law. |

**Procedures: *(adopted 3-7-2016)***

#### 5.13.1 Public Sector Labor Law Employees

Any College employees that are included within the coverage of the Missouri Public Sector Labor Law must petition for formal certification of their chosen representative with the State Board of Mediation, in accordance with Missouri law, *Section 105.500,* *et seq.*, RSMo (2000).

#### 5.13.2 Choosing a Representative – Employees not Covered by Public Sector Labor Law

Any College employees that are excluded from the coverage of the Missouri Public Sector Labor Law may Petition for formal election of their chosen representative with the College Board of Trustees, in accordance with this Board Policy.

#### 5.13.3 Board Requires Secret Ballot Election Process

The College will recognize a labor union or other organization as the official bargaining representative for a group of College employees only after a secret ballot election, similar to those conducted under the Missouri Public Sector Labor Law and as set forth in this Policy, unless otherwise required by law.

#### 5.13.4 Establishment of Additional Procedures

College employees may use the process established in this Policy and its related procedures to select a labor union or other organization of their choice as their representative for purposes of collective bargaining. The President is authorized to make additional rules and procedures to govern the election process as may be necessary to implement this Policy.

#### 

#### 5.13.5 Petition for Election of Representative with Required Information

To initiate a secret ballot election process to select a representative, an employee must submit to the President or his or her designee a formal Petition for Election of Representative, including the following requirements:

1. The name of the labor union or organization seeking such recognition, along with the name, address, e-mail and telephone number of the designated contact person.
2. A description of the proposed bargaining unit for which representation is sought. The description should include the classifications of employees to be included and excluded, and the approximate total number of employees included in the proposed bargaining unit.
3. The Petition must be supported by the valid dated signatures of at least 30 percent of the total number of employees in the proposed bargaining unit, on cards or a petition format.
4. No signature in support can be older than six (6) months from the date the Petition for Election is submitted to the President or his or her designee. The signatures in support should be submitted in a separate sealed envelope, labeled “*Signatures in Support of Petition.*”

Once the President or his or her designee receives such a Petition, he or she will post notice of receipt of the Petition in the same location that notices for Board meetings are posted. The notice will set a future date, no earlier than five (5) business days after the first date of posting, in which any College employees interested in representation by a different labor union or organization may submit a request for a different representative, as described below in 5.13.8,

“Other Interested Organizations.”

#### 5.13.6 Initial Support by 30% of Employees in Proposed Bargaining Unit

The President or his or her designee will identify and designate an appropriate neutral third person or entity to review the Petition and confirm that it is supported by at least 30 percent of the employees in the proposed bargaining unit. The President or his or her designee will provide the designated person or entity with a list of names and signatures of all College employees within the definition of the proposed bargaining unit for verification.

The President or his or her designee, and the third person or entity designated to review the support for the Petition, will have up to 30 business days to verify that the required information is present, and to examine the description of the proposed bargaining unit and the validity of the signatures in support. The President or his or her designee will notify the contact person of the union or other organization seeking recognition of any missing information, to allow an opportunity for any problem to be promptly corrected.

The envelope labeled “*Signatures in Support of Petition*” containing the signatures in support will remain sealed, until the designated third person opens it to verify the existence of valid timely (*i.e.*, within six (6) months) signatures from at least 30 percent of the employees in the proposed bargaining unit.

The designated third person or entity will notify the President or his or her designee, and the contact person of the labor union or other organization, as to whether or not valid timely signatures of 30 percent of the employees were presented in support of the Petition, but will not provide additional information, and will not disclose the signed petition or cards, nor which employees supported the Petition, nor the total number of employees who supported the Petition, to the College or to any person unless required by law.

#### 5.13.7 Determination of Appropriate Bargaining Unit

If the information in the Petition is complete, and the necessary level of 30 percent support is demonstrated, the President or his or her designee will consider and determine whether the scope and definition of the proposed bargaining unit is appropriate. The President or his or her designee will submit to the Board of Trustees a written recommendation as to the appropriateness of the proposed bargaining unit description, and a list of the College positions and employees who would belong to the unit, if formed. If the President or his or her designee determines that the scope and description of the proposed unit is appropriate, the Board of Trustees will set a date for the election.

If the President or his or her designee determines the scope and description of the proposed bargaining unit is not appropriate, the Board of Trustees will set the matter on its agenda and decide the issue at an upcoming Board of Trustees meeting*,* unless the President or his or her designee and the labor union or other organization seeking recognition agree that a meeting is not necessary to resolve the disagreement.

If the matter is set for a Board meeting, the contact person for the labor union or other organization seeking recognition will receive notice of the date, time, and location of the meeting. The Board of Trustees will make a determination as to the appropriateness of the proposed bargaining unit within ten (10) business days of the meeting.The Board’s decision is final. If the proposed bargaining unit is approved, the Board of Trustees will set a date for the election. If the description of the proposed bargaining unit is not approved, the contact person for the labor union or organization seeking recognition may submit a revised unit description (see paragraph below).

If a revised unit description is submitted, The President or his or her designee will provide the designated third person or entity a list of names and signatures of College employees meeting the definition of the revised proposed bargaining unit, so that the designated third person can determine if signatures from at least 30 percent of the employees in the revised unit were obtained, as described in

5.13.6, “Initial Support by 30 Percent of Employees in Proposed Bargaining

Unit” above. If so, the President or his or her designee will submit to the Board a recommendation regarding the appropriateness of the proposed revised bargaining unit as described in this section. If the designated third person or entity determines that the required number of signatures were not obtained, the employee must re-submit a new petition for election for representation with the

30% showing described in 5.13.6, “Initial Support by 30 Percent of Employees in Proposed Bargaining Unit ” above.

#### 5.13.8 Other Interested Organizations

As set forth above, once the President or his or her designee receives a complete Petition, he or she will post notice of receipt of the Petition in the same location(s) that notices for Board meetings are posted. Once the President has posted notice that a Petition for Election of Representative has been filed to select a labor union or other organization as the representative for collective bargaining, any College employee in the proposed bargaining unit that is interested in being represented by a different such organization may submit a second Petition to the President or his or her designee.

To do so, the employee must submit a Petition with the same information set forth in 5.13.5, “Petition for Election of Representative” above (including name of labor union or organization seeking recognition, contact information for designated contact person), except that such second Petition need only be supported by signatures of ten percent (10%) of the employees in the proposed bargaining unit.

All information must be submitted to the President or his or her designee no later than the date set in the posted notice. The Board of Trustees will delay setting a date for an election until the new information is reviewed by the President or his or her designee, and the person designated to review the Petition, in accordance with the provisions of 5.13.5, 5.13.6, and 5.13.7 of these procedures as described above. If the request was submitted before the deadline and is supported by the timely (*i.e.*, within six (6) months) signatures of at least ten (10) percent of the employees in the proposed bargaining unit, the additional labor union or organization will also be listed on the ballot, and the Board will set a date for the election.

#### 5.13.9 Ballot, Notice of Election, and Election Procedures

The Board of Trustees may receive recommendations from the President or his or her designee, and from the contact person for the labor union(s) and organization(s) that will appear on the ballot, regarding appropriate wording and order of choices to appear on the ballot. The Board of Trustees will determine the language to appear on the ballot in time for the Notice of Election (see paragraph below). All approved ballots must include an option under which an employee may vote “No” or for “No Representation” *i.e.*, a vote not to be represented by any labor union or organization for collective bargaining.

The President or his or her designee will provide notice of the election in writing, electronically or otherwise, to all College employees in the proposed bargaining unit. In addition, the President or his or her designee will post notice of the election in the same location that notices for Board meetings are posted, and in other conspicuous places easily accessible to the College employees in the proposed bargaining unit, no less than five (5) business days prior to the election. The Notice of Election shall contain:

1. The date, hours and place of the election.
2. A description of the proposed bargaining unit.
3. A sample ballot with “Sample” clearly marked on its face.
4. Information regarding applicable Board policies and procedures.

The election will be held in one (1) or more polling places reasonably convenient to the eligible voters, and at times when the employees in the proposed bargaining unit may vote without leaving their assigned duties. The election will be conducted by secret ballot. The Board, the College President or his or her designee may appoint one (1) or more College employees or other persons who do not belong to the proposed bargaining unit, nor to any labor union or organization listed on the ballot, to distribute and collect the ballots, and to check the names of voters off of a list of College employees in the proposed bargaining unit. The College may also select an outside third person or entity to perform these election functions.

The President or his or her designee and the union(s) or organization(s) seeking recognition appearing on the ballot may each have a representative (“designated observer”) present at each polling place during the election. The designated observers may challenge an individual’s eligibility to vote. Challenged ballots shall be folded and placed in a separate sealed envelope with the name of the voter plainly written on the outside. Challenged ballots will not be considered, unless the number of such votes could affect the results of the election. If the challenged ballots might affect the results of the election, the challenged ballots will be presented to the Board of Trustees at a later formal Board meeting as set forth below, for a final determination of the challenge.

#### 5.13.10 Tally of Ballots and Election Results

Ballots will not be tallied until after the posted time for closing the polls, unless all of the eligible voters have already cast their ballots. The ballots will be tallied by the Board- or President-appointed College employee(s) who does not belong to the proposed bargaining unit, nor to any labor union or organization listed on the ballot, or the outside third person or entity mentioned in 5.13.9,“Ballot, Notice of Election, and Election Procedures”, and will be done in the presence of the designated observers selected by the President or his or her designee and each of the organization(s) listed on the ballot. Tallied ballots will be placed in a sealed envelope and saved until all challenges and objections are resolved as described in 5.13.11, and the Board votes to certify the election results. The tentative results will be recorded in writing and signed by the observers present when the ballots were tallied. The results will remain tentative until the Board votes to certify the results. The Board’s decision will be final.

If a union or organization seeking representation and appearing on the ballot receives a majority of the votes cast, the outcome is a majority election, and that union will become the elected bargaining representative for the bargaining unit, after all election objections (and any ballot challenges) are resolved, and the Board of Trustees votes to certify the election result.

If the only labor union seeking representation does not receive a majority of votes cast, or if the ballot choice of “No” or “No Representation” receives a majority of the votes cast, the outcome is also a majority election, and no union or organization will become the elected bargaining representative for the bargaining unit, after all election objections (and any ballot challenges) are resolved, and the Board of Trustees votes to certify the election result.

An “inconclusive election” is an election in which the ballot includes at least three (3) choices, i.e., at least two (2) labor unions or organizations seeking representation and an option for “No Representation,” and where no choice receives a majority of the ballots cast. When the results of an election are inconclusive, the Board will set a date for a Runoff Election as described in

5.13.12,“Runoff Election” of these policies and procedures. Unless otherwise directed by the Board, there will only be one Runoff Election.

A “null election” is an election where all choices receive an equal number of votes, or where two (2) choices receive an equal number of votes and a third choice receives a higher, but still a less-than-majority vote. When this happens, the Board of Trustees may declare the election a nullity and set a date to run a new election (a “rerun election”). The new election will follow the notice and election process detailed in 5.13.9, “Ballot, Notice of Election, and Election Procedures” of these procedures. If the rerun election results in another nullity, the Board of Trustees will dismiss the Petition and a bargaining unit will not be formed. If the second election results are “inconclusive,” a Runoff Election will be held.

A “final election” is an election in which two (2) or more choices receive an equal number of votes, another receives no votes, and all eligible voters have voted. In such case, neither a runoff election nor a rerun election will be conducted. Because all eligible employees have voted and there is no majority result, no representative is selected, and no labor union or organization will become the designated bargaining representative for the proposed bargaining unit, once all election objections (and any ballot challenges) are resolved and the Board of

Trustees votes to certify the election result. The Board’s decision will be final.

#### 5.13.11 Challenged Ballots and Objections to Election Results

Within ten (10) business days after the votes are tallied, any employee in the proposed unit may file with College an objection to the conduct of the election or conduct affecting the results of the election, which shall contain a short plain written statement of the reasons for the objection. A copy of the written objection must be provided to all members of the Board, to the President or his or her designee, and the contact person for any organization(s) seeking to represent the proposed bargaining unit and which appeared on the ballot. The same process shall apply to challenged ballots which may affect the outcome of the election.

The President or his or her designee will investigate all such challenges and objections to the conduct of the election or affecting its results. Unless the President and the persons or challenging the ballots or objecting to the election agree otherwise, the Board of Trustees will hold a meeting to consider the objection. If a Board meeting is held, the President or his or her designee; the person(s) challenging the ballots or filing the objection; and the contact person for each of the organization(s) seeking recognition on the ballot, will receive notice of the meeting. The Board will make a decision within ten (10) business days on the challenge or objection. The Board’s decision will be final.

After the time for filing objections has expired and/or the Board has made a final decision on all objections and, if necessary, challenged ballots, the final results of the election will be presented to the Board of Trustees for Certification of Election results (and, if needed, for a runoff election; see paragraph 5.13.12, below).

#### 5.13.12 Runoff Election

If a runoff election is necessary, the ballot in any runoff shall provide for a selection among the two (2) or more choices receiving the largest number of votes in the last election, the sum of whose votes aggregate at least one (1) more than half of the total votes cast. After voting to certify the first election, the Board will set a date for the runoff election. The election will follow the notice and election process detailed in 5.13.9, “Ballot, Notice of Election, and Election Procedures.” All College employees in the proposed bargaining unit may vote in the runoff election, regardless of whether or not that employee voted in the original inconclusive election.

#### 5.13.13 Election Bar

Once a final election result is certified regarding a bargaining unit, no Petition requesting another election in any part of the same bargaining unit will be accepted by the Board for a period of one (1) calendar year after the date the Board voted to certify the results of the prior election.

#### 5.13.14 Petition for Decertification or Change of Representation

Any employee in the bargaining unit may Petition for Change of Representation of his or her bargaining unit, or to no longer be represented by any union or organization for collective bargaining. As noted above in 5.13.13, “Election Bar”, the Board will not accept such a petition for a period of one (1) year after the Board votes to certify the results of the prior election. At any other time, an employee must submit to the President or his or her designee a Petition containing the following information:

1. The bargaining unit in which a Change of Representation is sought, and whether the Petition seeks a different labor union as the representative, or seeks “No Representative.”
2. If the Petition seeks a change to a new labor union as the representative, the name of the labor organization seeking recognition as the new employee representative, along with the name, address, e-mail and telephone numbers of its designated contact person.
3. The Petition must be supported by the valid dated signatures of at least 30 percent of the employees in the bargaining unit, on either cards or a petition format. No signature in support of the Petition can be older than six (6) months from the date the Petition for Change is submitted to the President or his or her designee. The signatures in support should be submitted in a separate sealed envelope, labeled “*Signatures in Support of Petition.*”

Once the President or his or her designee receives such a Petition, he or she will post Notice of Receipt of the Petition in the same location that notices for Board meetings are posted. The process will follow, as closely as possible, the procedures set out above.

The notice will set a date, no earlier than five (5) business days from the first date of posting, by which College employees in the bargaining unit who are interested in a change in representation (i.e., to an alternate labor organization) may submit such a second request, as in 5.13.8, "Other Interested Organizations." The process will follow, as closely as possible, the procedures set out above.

The President will identify and designate an appropriate third person or entity to review the Petition and confirm the existence of support by at least 30 percent of the employees in the bargaining unit. The President or his or her designee will provide the designated third person or entity a list of names and signatures of all College employees within the current bargaining unit for verification.

The President or his or her designee, and the third person or entity designated to review the support for the Petition, will have up to 30 business days to verify that the required information is present, and to examine the bargaining unit information and the validity of the signatures in support. The President or his or her designee will notify the contact person of the union or other organization seeking a change in representation (if any) of any missing information, to allow an opportunity for any problem to be timely corrected.

The envelope labeled “Signatures in Support of Petition” containing the signatures in support of the Petition for Change will remain sealed, until the designated third person opens it to verify the existence of valid timely signatures from at least 30 percent of the employees in the current bargaining unit.

The designated person will promptly notify both the President or his or her designee and the contact person for the potential new labor union or organization (if any) as to whether signatures of 30 percent of the employees were presented in support, but will not provide additional information, and will not disclose the signed petition or cards, nor which employees supported the Petition, nor the total number of employees who supported the Petition, to any person unless required by law*.*

If the information is complete, the Board will set a date for the election. The ballot on any Petition for Change of Representation must include the following choices: 1) the current labor union organization or other designated representative; 2) the new labor union(s) or organization(s) seeking the change in representation (if any); and 3) an option for employees to vote for “None” or “No Representative” *i.e.,* to vote for no representation for purposes of collective bargaining. The election will be conducted in accordance with the process detailed in this policy and these procedures.