

INCSO CONTACT




Newsletter of the National Staff Organization

September 2004

Thanks to team effort...

New Mexico Union Bargains 2-Year Contract

 Tentative agreement has been reached between the NSO-New Mexico and NEA-New Mexico. The new two-year agreement provides an average four percent salary increase. "Once again, the professional salary schedule is re-formatted so that some remain at the current level, even though receiving a salary increase," says NSO Executive Committee member and NSO-New Mexico leader Pat Chavez. "This allows the schedule to finally be re-indexed at about five percent; thus, we should be able to just add to the base in the future and allow normal movement."

Another major change dealt with car allowance. Management had pushed to recalculate allowances in September based on last year's mileage. The union prevailed to not allow a recalculation until mid-year. The language now reads: "Mileage calculation will be from September 1, 2004 through December 31, 2004. The Labor Management Team will convene on or about January 15, 2005 to determine if there needs to be any adjustments to any employees receiving auto allowance pursuant to this agreement. In the event it is determined that adjustments will be made, the adjusted amounts will take effect February 1, 2005."

The mileage requirement to receive full allowance was reduced from 14,000 to 13,000 miles. Other provisions include:

- The union agreed, to the extent possible, that it will provide the

NEA-NM executive director with a calendar of NSO events likely to require representation from NSO-NM members.

- The required notice for layoff was increased to 50 from 45 days.
- The labor management team is to hold its first meeting by September 20 of each calendar year. At that meeting, a calendar for meeting dates for the remainder of the contract year (September 1 - August 31) will be created. These dates may be changed by mutual agreement.
- NEA-New Mexico and NSO-NM will provide informal support and feedback to new employees approximately every three months through their probation period.

The new agreement defined years of employment for the purposes of calculating annual leave: "Years of employment, as specified in Article 20, Sections 1 and 2, shall mean for the purposes of that section, five years of continuous employment with NEA-New Mexico or advancement to level five on the salary schedule, which ever



NSO-NEA Labor Management Meeting in May covered a wide range of topics. See story page. 2.

occurs first." Acknowledgement for the bargaining team's hard work was given to: Henry Gonzales, Edie Brycelea, Julie Gonzales, Elizabeth Martines, and Pat Chavez.

L-M Summit Covers Difficult Agenda

One hundred individuals representing management, governance and staff union leaders from 19 NEA state affiliates and NEA attended the May 12, 2004, Labor-Management meeting in Chicago. Rebecca Royal, partner with HDR Benefit Advisors, addressed the gathering. NSO President Chuck Agerstrand (MI) and NEA's Mel Myler welcomed management and union leaders. The agenda included: •Defined Benefit Pension Plans: actuarial concerns; relative costs and administrative issues; and hybrid plans presented by Claire Wolcuff, Principal, Consulting Actuary, Mellon Human Resources & Investors Solutions. • Membership Trends and the NEA Budget presented by Bill Thompson, Director, NEA Business and Finance. • Working lunch in which Principles and Procedures that will Guide Our Actions were discussed. • Health Care: cost projections; industry norms; new initiatives; and pending legislation presented by Rebecca L. Royal, Partner, HDR Benefit Advisors.

Next Steps – Among the three areas considered for the future were: • A Joint NSO/NEA/NCSEA Study; •Two separate study groups: health care and pension; • Trends in other unions; • Cost containment information - what works?; • Prescription drugs as it relates to Canada; • National pooling information; • Pooled resources; • Health care communications/education; • Disease management; • Post-retirement health care liability; • Clearing house for best practices; • Lobby on Health Care Association Act; • Continue joint labor-management forums on regional or national basis.

"When we got together, employers and NEA recognized that a lot of states are having serious problems," NSO President Chuck Agerstrand told the NSO Representative Assembly in June. "Our goal is to maintain and preserve our pensions and health benefits."

NSO Members Help Hurricane Victims

"We are seeing the tremendous impact hurricanes have had on Florida as well as other states in its path," says NSO President Chuck Agerstrand. "Southwestern Florida - not far from where we have our Winter Advocacy Retreat - has been heavily hit.

Many of our friends and family live in the Englewood area, which is located in Charlotte County. We have heard there is a huge task ahead for the utility contractors, social workers, teachers, police, firemen, National Guard and more. If members are in a position to make any size donation - whether it be \$10 or \$500 - I could encourage them to consider donating to the Florida Education



FSO President Fischer meets with school bus drivers Steve and Tammi Walters at their destroyed rented Punta Gorda home.

Association Hurricane Charley Relief Fund ("FEA Fund"). "My hope is that NSO will come to our aide and encourage staff from around the country to solicit funds for the FEA Fund," says Steve Fischer, president of the Florida Staff Organization. "We decided that a separate fund from FSO would be counter productive to raising large amounts of money."

Checks should be made payable to the FEA Hurricane Charley Relief Fund and sent to:

FEA Hurricane Charley Relief Fund, 213 S. Adams Street, Tallahassee, FL 32301.

NSO-R Members also help in Punta Gorda

Several NSO-R members who live in and around the North Port, FL, area are working together to help victims in neighboring Port Charlotte. NSO-R Members Sharon and Ray Sutherland, John and Margaret Wardell and Bernadette and Gerald Lange are spearheading several efforts. "We went by Charlotte Regional Hospital in Punta Gorda," says Sharon. Bobcat Trails, the community where NSO-R members live, is helping Port Charlotte. They have helped feed patients at a nearby nursing home that has been without electricity. Food and especially hot meals, is difficult. Right now, they have "adopted" two streets in Port Charlotte. One is a "loop" of about 16-18 houses. Of course, cash donations are welcome. Checks should be made payable to "Bobcat Tales" and earmark it to Hurricane Charley. Supplies and/or cash donations can go to:

Sharon Sutherland, 1615 Palmetto Palm Way, North Port, FL 34286.

With multiple hurricanes hitting Florida and other states, please check the NSO Web page for updated information.

Arbitrator Upholds Montana Staff Ratio 'Past Practice'



In a remarkable ruling, Arbitrator Carlton J. Snow has sustained a grievance by the Montana Staff Organization (MSO) that requires the Montana Education Association-Montana Federation of Teachers (MEA-MFT) to provide support staff at a ratio of not less than one support staff for every two professional staff employees. Citing "past practice," Snow agreed with the union's position that since 1978, MEA-MFT has provided that level of staff support. The arbitrator also dismissed the employer's argument that advances in technology mitigate the need for support staff.

When the MEA-MFT decided to add a field consultant (UniServ staff) to the Missoula but failed to add a support staff employee for the now three professional staff, MSO filed a grievance. The number of locals served by the Missoula office increased from 61 to 82. A hearing before Arbitrator Snow took place May 10, 2004 in Helena, MT. Snow issued his ruling August 2, 2004, and said, in part, "...the arbitrator concludes that the Employer violated the parties' collective bargaining agreement by assigning a third Field Consultant to the Missoula Field office without observing the staffing ratio of one full-time administrative assistant to no more than two Field Consultants. The staffing ratio is a past practice that constitutes a contractual right which must be terminated, if at all, at the bargaining table."

The arbitrator recorded that since 1978-79, the then Montana Education Association (MEA) has recognized that the staffing ratio was necessary to adequately serve MEA members. Former MSO leader Dave Sexton testified to participation in a extensive study when MEA went through its reorganization. In April 1981, MSO (then the Montana Education Association Staff Organization) grieved management's replacement of a full-time secretary in its Missoula UniServ Center with a part-time employee. By July of that year, the issue had been resolved when MEA hired a full-time secretary for that office. Snow ruled, "The objective evidence supports the conclusion that in 1981 management recognized and accepted the 'staffing ratio' past practice."

As part of the merger between MEA and the Montana Federation of Teachers, MEA-MFT entered into a "Memorandum of Understanding" (MOU) in June 1999 which was subsequently incorporated into the 1997-2000 contract. The MOU permitted management to restructure staff by waiving certain articles of the contract for a definite time period "beginning June 15, 2000 and ending July 15, 2000, or for 30 days after the new organization's constitution becomes effective." The staff change in the Missoula office took place in August 2002.

Snow went through a detailed analysis of what constitutes "past practice" and wrote, "If activity in an organization covered by a collective bargaining agreement rises to the level of a 'past practice,' the practice becomes like any other term of a collective bargaining agreement and constitutes an independently enforceable right." Such a practice must be officially "renounced" at the bargaining table. Says Snow, "By not renouncing a practice at the bargaining table, a party creates a circumstance where it is reasonable for the other party to conclude that activity will continue in force during the life of the agreement." He went on to emphasize, "...if activity or conditions of the parties' relationship rise to the level of a past practice and are not excluded by some principled exception to the rule, the practice has all the force and impact of any other contractual term in the parties' agreement." Snow added that the U.S. Supreme Court recognized the importance of past practice in *United Steelworkers of America v. Warrior & Gulf Navigation Company*, 363 U.S. 574, 581 (1960). "The labor arbitrator's source of law is not confined to the express provisions of the contract, as industrial common law—the past practice of the industry and the shop—is equally a part of the collective bargaining agreement although not expressed in it." (Emphasis added by Snow in his ruling.)

Snow recognized the true impact of technology on support staff by carefully dismissing MEA-MFT's argument that the "technological revolution" has made life easier for MEA-MFT administrative assistants. "As an abstraction, the argument sounds plausible, and at first blush it might seem that secretaries ought to have less work due to the use of modern labor-saving devices," says Snow. "But the reality is that computers, voice mail, e-mail, duplicating machines, and similar equipment increase a secretary's work load." Snow then addressed three elements of new technology...

Voice Mail – "An administrative assistant answers the telephone not only during the workday, but also must respond to calls that accumulate after hours and on weekends due to the advent of voice mail. Voice mail

2004-2005 NSO Calendar

Below is the current calendar for NSO events during the 2003-2004 year. Be sure to check the NSO Web page for calendar updates.

*NSO Executive Committee
Sept. 30-Oct. 2, 2004
Boston, MA*

*Western CBC Meeting
Oct. 15-16
Cour d'Alene, ID*

*Southern States CBC
October 15-16, 2004
Marriott at Renaissance Center, Detroit, MI*

*Corridor States CBC
October 16, 2004
Marriott at Renaissance Center, Detroit, MI*

*NSO Winter Advocacy Retreat
Jan. 14-15, 2005
Sarasota, FL*

*NSO Representative Assembly
June 10-11, 2005
San Diego, CA*

has enormously increased the number of calls to be handled by a single administrative assistant. In an earlier day, a caller who attempted to interrupt a conversation would have received a busy signal. Today, such a caller is diverted into voice mail. In effect, each office is now equipped with multiple incoming lines that permit callers to leave complicated messages that an administrative assistant must handle later. Closing an office for the day does not stop the accumulation of work that must be unraveled on an administrative assistant's return to his or her desk."

E-Mail – "E-mail is open 24 hours a day, 7 days a week and is an entirely new source of work for an administrative assistant. Not only must regular mail be opened and answered, but e-mail messages that arrive during all hours of the day and night must be processed. E-mail and voice-mail alone have in-

creased enormously access to services of a field office."

Computers – "Much more is now expected of support personnel because of the availability of vast information on computers. Administrative assistants are expected to merge diverse databases and to mail out thousands of personalized, customized letters to members or citizens. An administrative assistant is expected to update and manage information in the databases, to keep current with appropriate software, to learn new programs, and, on occasion, to 'stuff' regular mailings. Now personalized mailings are possible and routine. Moreover, an administrative assistant's facility with a computer has led to an expectation that an individual is able to create posters and flyers that, until recently, were the exclusive province of commercial print shops."

The arbitrator noted that no evidence was presented by management rebutted the fact that some of the administrative assistant's tasks had "fallen by the wayside." Snow added, "A permanently increased workload out of proportion to the length of the workday will cause exhaustion or undermine morale. It is not in an organization's best interest to stress employees to the point of having to train new workers because experienced ones depart."

Snow retains jurisdiction for 60 days from the date of the report "...during which time the parties shall have an opportunity to fashion an appropriate remedy. Either party, during this time may activate the arbitrator's jurisdiction at which time he will determine an appropriate remedy if the parties are unable to do so."

The union grievance was argued by NSO Member Maggie Copeland. The grievance is: Workload Grievance AAA Case No. 77 300 00347 03

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