

LABOR EDUCATION PROGRAM

"Our lives shall not be sweated from birth until life closes, hearts starve as well as bodies; give us bread but give us roses..."
 James Oppenheim, "Bread and Roses"

LABORLINE NEWSLETTER

INSTITUTE FOR ECONOMIC ADVANCEMENT / COLLEGE OF BUSINESS

UPCOMING SEMINARS

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|------------------------|--|
| March 15, 2003 | Local Union Newsletters |
| May 1-2, 2003 | Collective Bargaining in the New Economy
<i>(Registration form enclosed)</i> |
| May 15-16, 2003 | Workplace Safety for Local Unions
<i>(Registration form enclosed)</i> |
| Summer 2003 | The Internet for Union Activists |

LEP courses and services can be found on the LEP web site at: <http://www.iea.ualr.edu/lep>

Spring 2003

Upcoming Seminars

- **Local Union Newsletter**
March 15, 2003
- **Collective Bargaining in The New Economy**
May 1 and 2, 2003
- **Workplace Safety for Local Unions**
May 15 and 16, 2003
- **The Internet for Union Activists**
Summer 2003
All union members are invited.

All seminars are presented in cooperation with the Arkansas AFL-CIO and are held in the Little Rock area. Details of upcoming seminars are enclosed.

A New Building and New Staff!

If you tried to call or e-mail us in December you know that LEP has relocated. Moving our offices was a HUGE JOB! An amazing amount of records, files, and equipment (we found stuff we didn't know we had!) had to be purged or boxed, and then unpacked.

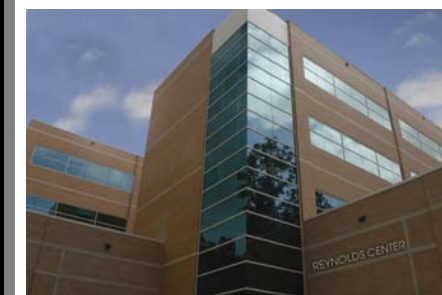
It was all worth it. Our new home, the newly constructed Don Reynolds Center for Business and Economic Development, is beautiful, high tech, and accessible. The new building houses the College of Business comprised of the UALR business school, the Arkansas

Small Business Development Center, and the Institute for Economic Advancement (which includes LEP). It sits on the southwest corner of the UALR campus at the intersection of 28th and University Avenue.

Due to its location (with parking across 28th street) and its high tech facilities, the building gives us the opportunity to bring union members to campus for classes and meetings. In fact, our Newsletter seminar will be held at the Reynolds Center on March 15, and the LEP Advisory Committee will meet here in April. LEP is also exploring the possibilities of distance learning.

Other changes at LEP include the addition of two new staff members, Randy Wright and Mike Gerfen. (Read more about Randy and Mike on page 3.) We also plan to employ an additional Workplace Skills Program Developer. Our hope is to add another Spanish speaker to our staff (Mike Gerfen is fluent in Spanish) who can work on special projects with the Hispanic community.

– **Diane Thomas-Holladay, Director**



Reynolds Center for Business and Economic Development

E-Mail an Effective Tool For Unions

Recent NLRB decisions allow unions and employees great latitude in their use of e-mail to discuss union matters. Nearly ten years ago, the NLRB determined that if an employer allowed employees to use its e-mail for personal matters, it could not prevent a union from using the same e-mail system to conduct union business. The NLRB later expanded this decision to classify e-mail protesting an employer's policy as "concerted activity" protected under Section 7 of the National Labor Relations Act.

In 1998, the NLRB Regional Director noted that an employer's policy banning all e-mail could violate an em-

ployee's right to free speech and association unless the employer could prove special circumstances to justify the policy. The NLRB General Counsel subsequently characterized an employer's failure to bargain unilateral changes in its e-mail policy as a possible violation of Section 8 of the NLRA.

Because E-mail can be sent, received, and read during work and non-work time, both the courts and the NLRB are uncertain whether e-mail should be treated as oral or written communication. Lacking a clear distinction, the Board is uncomfortable treating e-mail as written communication, since written union communications are subject to

more employer restrictions.

Most recently, an Administrative Law Judge set aside a union representational election in an insurance office because the employer refused to allow employees access to e-mail to discuss the union. Citing e-mail as a primary contact source for insurance agents required to work away from the home office, the ALJ ruled that the company's ban was illegal. Such decisions underscore the unprecedented potential of e-mail for providing unions instantaneous and legally protected communication with an ever-growing numbers of workers.

– **Randy Wright**

How Management Must Furnish Information

The NLRB has recognized the right of unions to make broad, general requests for information such as:

"Please supply all documents or records which refer to or reflect the factors causing you to reject this grievance."

The request should usually be in writing and dated and the union should keep a copy of the letter. Though Management can respond orally to a relatively simple request, the employer is usually required to provide photocopies.

How Long Can Management Delay Before Providing the Requested Information?

Management has the legal responsibility to provide information in a "timely manner." The acceptable time for compliance depends upon the type and amount of the information requested. Two weeks should be sufficient for employers to comply with straightforward requests such as attendance records, disciplinary records, and personnel files.

What if the Employer Refuses to Provide the Information?

An employer must provide a reason for denying an information request. Common reasons include:

1. **Relevancy.** An employer may claim that the information is not relevant or necessary to bargaining. However, information cannot be denied if it is related to the union's function as bargaining representative.
2. **Confidentiality.** A Union's right to information usually outweighs an employer's concerns for confidentiality.
 - a. **Employee confidentiality.** An individual's consent is usually required to obtain medical and psychological records, but relevant medical data is available with names and identifiers removed. Unions are entitled to names and addresses of all employees, wages of individual employees, and individual discipline records.
 - b. **Trade Secrets.** Access to certain chemical formulas and processes may be restricted or require a pledge of secrecy.
 - c. **Company Financial Information.** An employer may deny a request for overall company financial information. However, if the employer claims it cannot meet union bargaining demands due to financial circumstances, the union has lawful access to information that would verify the employer's claim.
3. **Form and Availability.** If the employer offers a "good faith" objection to the form of the request and offers the union an alternative way to provide the information, the union may have to agree to a mutually acceptable accommodation. Ordinarily, the employer cannot refuse to supply information in its possession even if the union can obtain it directly from employees or other sources.
4. **Burdensome Requests.** No employer can refuse a relevant information request because it is too large or difficult. However, the union may be required to share the cost of producing a burdensome request. Costs are a subject for bargaining.

Unfair Labor Practice. If an employer has delayed or unjustly denied a request for information, an unfair labor practice charge (ULP) can be filed with the National Labor Relations Board (NLRB) office for your area. The NLRB will investigate and if the charge has merit, issue a complaint and ask the employer to correct the situation. If the employer refuses, a hearing is held and a decision is made. The losing party may appeal the decision. Cases involving the refusal to provide information are not deferred to arbitration. - **Grainger Ledbetter**

Labor Education Program

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Little Rock Firefighters Partner with UALR Labor Education

To be promoted to Captain, Little Rock firefighters must pass a series of tests that include a videotaped presentation of a mock situation they have been instructed to handle. At the request of Local 34 of the International Association of Firefighters, the staff of the Workplace Skills Enhancement Program provided a one-day training session to help firefighters prepare for the difficult examination process.



The day of customized training included **presentation** and **writing** skills as well as organizing a **written outline** and using **time management** strategies to stay on track. Participants answered practice questions on camera and got feedback on such things as hand gestures, eye contact and using notes effectively. Firefighters also worked in groups to answer sample questions and debate the best ways to handle sensitive issues such as addressing subordinates and reporting to the Chief.

Twenty-seven people attended the class, held at the Local 34 union hall. Two WSEP staff members conducted the training with the input of Ed Jaros, president of IAFF Local 34. Ed's experience, and those of other Local 34 members who had been through

the testing process, proved invaluable to the success of the class. Although the current system requires firefighters to compete against one another for promotions, the collective ideas of the entire group gave everyone something new to consider in preparing for their assessment. - **Laura Miller**

Randy Wright and Mike Gerfen Join LEP Staff

The UALR Labor Education Program welcomes Randy Wright and Mike Gerfen to its teaching staff this fall. Mike, who now works as an Program Developer in the Workplace Skills Enhancement Program, originally hails from Spokane, Washington. A 20-year Air Force veteran, he received his Bachelor of Science degree from Southern Illinois University, Carbondale.

In addition to his ten plus years experience in occupational training, Mike has special expertise in course development, and curriculum planning. A fluent Spanish speaker, Mike has already proved invaluable to LEP's outreach to the Hispanic community.

Randy Wright, who joins the staff as a Labor Education Specialist, brings to LEP nearly twenty-three years of experience as a practicing attorney specializing in labor and employment, workers' compensation and contract law. He has also worked as a staff attorney for the Arkansas Ethics Commission and as Chief Appeals Referee for the Arkansas Appeals Tribunal.



Mike Gerfen and Randy Wright

In addition to his legal work, Randy taught business and labor law for Webster University and took an active role in continuing legal education programs involving civil rights, labor, employment, ethics, administrative law, health law, and related fields.

Having Randy and Mike on board will bring new variety and expertise to LEP educational services and training programs. Please welcome Mike and Randy to the LEP family!

Headed into Collective Bargaining Soon?

Health insurance benefits will again be the hot topic at bargaining tables in Arkansas and across the nation. According to the *Bureau of National Affairs Employer Bargaining Survey for 2003*, 43% of companies surveyed intend to demand increases in employee health insurance co-payments, deductibles, or premium contributions.

With regard to wages, nearly 55% of employers who responded to the BNA survey expect to limit first-year wage increases to 3% or less. This is tough news for union workers when compared with the rate of inflation, which the Institute of Economic Advancement at UALR predicts will run at 2.9 percent per year for the next three years.

To bargain effectively in today's economy, unions need a working understanding of their bargaining environment. They need to "cost the contract" in order to determine what an entire contract offer is worth, so that changes in benefits can be weighed against gains in wages.



At our next LEP seminar, *Collective Bargaining in the New Economy*, (scheduled for May 1-2) we will review these crucial bargaining issues and demonstrate an easy way to "cost the contract" using a simple computer program. See the enclosed flyer for more information about the seminar. See you there! - **Tom Karson**