

LABOR EDUCATION PROGRAM

"Intelligent discontent is the mainspring of civilization. Progress is born of discontent. It is agitation or stagnation."
- Eugene V. Debs

LABORLINE NEWSLETTER

INSTITUTE FOR ECONOMIC ADVANCEMENT / COLLEGE OF BUSINESS

Poor Economy Hurts Workers and Unions

Upcoming Seminars

- **Arbitration: Making Your Best Case**
September 24-26, 2003
- **Labor Law for Unions**
November 6-7, 2003
- **6th Annual Presidents' School**
January 30-31, 2004
Spring 2004
- **Strategic Grievance Handling**
- **Writing Effective Contract Language**

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.



Diane Thomas-Holladay teaching at the 5th Annual Presidents' School.

Whether it's called a "recession," a "downturn," or a "jobless recovery," today's economy is hurting families, workers, and their unions. Unemployment has reached its highest levels since 1994. More private-sector jobs have been lost during this downturn than in any comparable period since WWII.

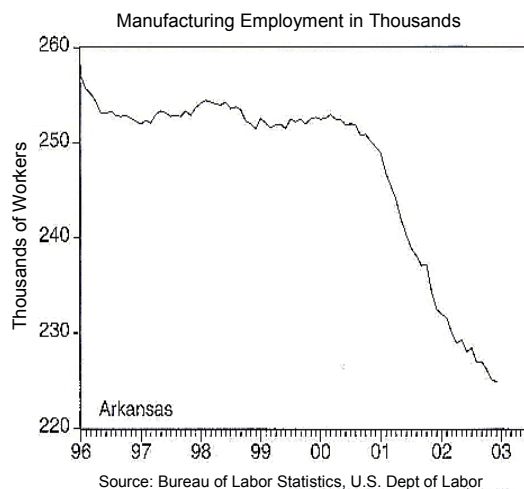
Job losses in heavily unionized sectors like airline, hotel, construction, and manufacturing have hit unions hard. 213,000 unionized manufacturing jobs were eliminated in 2002. Not surprisingly, the AFL-CIO reports that overall union membership, despite the recruitment of over half a million new union members, fell in 2002.

Although public sector union membership grew by 168,000 members in 2002, 68,000 public-sector jobs have been lost since February. One-third of the loss has come from local government and education sectors that have large numbers of union members.

Manufacturing constitutes only 15.1% of the private labor force, but 90% of the jobs lost since the downturn began have been in manufacturing. Since July 2000 the manufacturing sector has lost 2.6 million jobs. In Arkansas, one out of every nine manufacturing jobs has disappeared. In addition, the loss of tax revenues associated with lost manufacturing

capacity and jobs, the AFL-CIO argues, is contributing to the fiscal crises in states around the nation.

The AFL-CIO points out that manufacturing has been American's engine for generating good jobs and building a middle class. Average hourly compensation for workers in manufacturing is 23% higher than in service producing sectors.



Sounding the alarm on the manufacturing crisis, the AFL-CIO has called for a concerted effort to reverse the freefall. *Revitalizing American Manufacturing*, published by the AFL-CIO Industrial Union Council, outlines the impact of the decline of manufacturing on our economy, and proposes an agenda for strengthening manufacturing. Copies are available on the web at www.aflcio.org.

- Diane Thomas-Holladay, Director

LEP Welcomes Tracey Spencer to Staff

The UALR Labor Education Program has hired Tracey Spencer as a Program Developer in the Workplace Skills Enhancement Program. Tracey graduated from the University of Central Arkansas with a Bachelor of Science degree in Sociology.

Tracey brings an impressive array of skills to LEP. Though his primary

focus is job development and job skills training, his extensive experience in computer software applications has already proved valuable to LEP and to the labor movement (see **WSEP p.3**). Please join us in welcoming Tracey to the LEP family.

- Randy Wright



Tracey Spencer

The Weingarten Decision

In *NLRB v. Weingarten* (U.S. Sup. Ct. 1975) the Supreme Court agreed with the National Labor Relations Board that an employee has the right to union representation at an investigatory interview that the employee reasonably believes will result in disciplinary action. In *Weingarten* the court found:

- The employee must request union representation. (Note: some contracts require the employer to automatically call a union representative if a disciplinary interview is held.)
- The employer has the right to conduct the interview without “undue delay.”
- If management does not want a union representative present, it must terminate the interview and rely on other sources to complete the investigation.

Once union representation has been requested, it is an unfair labor practice for the employer to continue the interview without union representation. The employee may refuse to answer any questions until representation arrives. (Note: the employer is not required to postpone an interview because a particular union representative is not available.)

Employer threats or interference

It is an unfair labor practice for an employer to threaten or imply that calling a union representative will mean more severe discipline.

Rights of Stewards In Disciplinary Interviews

The Board and the courts have subsequently defined *Weingarten* as granting stewards in disciplinary interviews the right to

- **learn** from management the type of misconduct that is the subject of the interview
- **hold** a brief, private pre-interview conference with the employee prior to the interview
- **speak** during the interview, including asking management to clarify a question and giving advice to the employee on how to answer it
- **provide** additional information to management once the questioning is over.

Invoking Your Weingarten Rights

Under *Weingarten* employees are entitled to a union representative anytime they are called to an interview which may lead to discipline. Employees have a right to union representation during employer “counseling sessions” if the sessions are a preliminary step to discipline.

“Run-of-the-mill” conversations involving workers and supervisors do not give rise to the right of union representation, unless an employee reasonably fears an adverse impact will result from the interview.

Union representation is not required to inform employees of disciplinary decisions which have already been made by the employer. However, if the employer engages in any conduct beyond merely informing the employee of a previously made decision, then the right to representation can be invoked.

Sources: Materials from *LEP Steward Training Manual*; the Labor Center, University of Iowa; Schwartz, Robert, *The Legal Rights of Union Stewards*; Work Rights Press, Boston, MA, 1988; and case law. –**Grainger Ledbetter**

LEP courses and services can be found on the LEP web site at www.aiea.uialr.edu/lep.

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Diane Thomas-Holladay

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Firefighter Student Promoted

LEP congratulates Al Emerson, recently promoted to Captain for the Little Rock Fire Department. Al attended a workshop sponsored by IAFF Local 34 which provided training for the very demanding series of tests required for promotion to Captain (a bargaining unit position).



This one day workshop was designed and taught by the staff of WSEP with assistance from Ed Jaros, President of Local 34.

Congratulations to Captain Emerson and Local 34!

2003 Labor Council Classes

NOTICE: LEP, in cooperation with a Central and Northeast Arkansas Labor Councils and the Arkansas AFL-CIO, is conducting the following special labor school classes:

- **Advanced Steward Training** August 9, 2003
UALR Campus
28th and University
Little Rock, AR
- **Labor Law for Local Unions** September 27, 2003
IUE Local 747
2317 W. Washington Ave.,
Jonesboro, AR

Cost: \$15. Time: 9 a.m. - 4:30 p.m. Contact LEP or the co-operating Labor Council for further information.

US Supreme Court Gives State Employees FLMA Rights



State employees finally have reason to celebrate a Supreme Court decision. In *Nevada Department of Human Resources v.*

Hibbs, (decided in May 2003) the United States Supreme Court ruled that state employees may recover damages in federal court if their state employer fails to comply with the family-care provisions of the Family Medical Leave Act (FMLA.) This decision deviates from several earlier cases in which the court, arguing that states were immune from suit in federal court, dismissed cases filed against state employers by individuals seeking protection under the Fair Labor

Standards Act, the Age Discrimination in Employment Act, and the Americans with Disabilities Act.

The case involved an employee with the Nevada Department of Human Resources, William Hibbs, who sought leave under the FMLA to care for his ailing wife. Mr. Hibbs brought his suit seeking relief under the family medical care provision of the FMLA. The state of Nevada argued that Mr. Hibbs' claim was barred pursuant to the state's immunity from suit under the Eleventh Amendment to the U.S. Constitution and should be dismissed.

The Supreme Court disagreed, noting that the FMLA was enacted to address sexually discriminatory practices in the workplace. It ruled that Congress expressly set aside the states' constitutional immunity from

lawsuits because, when it enacted the FMLA, Congress had before it significant evidence of sex discrimination by the states in the administration of leave benefits to their employees.

Hibbs is a significant victory for state employees. Over the last 25 years the Supreme Court has restricted the ability of state employees to seek redress for discriminatory acts experienced at work. In *Hibbs*, the court not only opened the door to state employees seeking legal relief under the FMLA, it underscored the importance of the FMLA in insuring that both men and women have the opportunity to care for family members in need.

– Randy Wright

WSEP Hooks Up Steelworker Local 883

In May and June WSEP conducted a series of computer training classes for USWA Local 883. The Union's leadership, despite being saddled with an old computer and shortage of computer skilled members, was determined to make their local computer savvy. The union requested WSEP's help with providing instruction for a variety of computer functions, including Microsoft Word and Internet training.

WSEP set up classes that focused on both basic and advanced computer skills. Members learned

how to create computer folders for data, how to create tables for lists, and how to use edit features to enhance documents and newsletters.

The training also covered accessing *Steelweb*, the USWA International's web site so that union members and leaders can respond more effectively to national issues and concerns. Local 883 plans to use the skills gained from the new training to increase office efficiency and better address the information needs of its membership.

- Tracey Spencer



WSEP Student, Donald Reed

"The training class really helped me to organize information and create files. It was a great experience to help serve my union. If you missed the class, you really missed something special!"

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LEP LABORLINE

Summer 2003

UPCOMING SEMINARS

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For more information call the LEP office at 501-569-8483*