

# NSO Contact

## National Staff Organization

April 2010

### Senate approves pension contribution relief

When the Senate recently passed the American Workers, State and Business Relief Act of 2010, it provided contribution relief for corporate defined benefit plans which will impact many NSO members.

This tax and jobs bill stretches out the amortization periods for investment losses occurring for two of the years between 2008 and 2011. The extension can be for either a 15-year or nine-year period. Currently, the law dictates amortization of investment losses over seven years.

Plan sponsors that opt for the nine-year period would have to make the additional plan funding contributions for only three years; the 15-year plan requires additional contributions for five years.

For employers that extend their amortization periods, they will be required to make additional contributions to their pension funds—if they pay employees more than \$1 million a year; pay out extraordinary dividends to shareholders; or redeem more than 10 percent of the market capitalization of their stock.

In addition to providing this private pension funding relief, the bill also extends the filing of unemployment benefits and COBRA health care subsidies.

The bill passed the Senate on a 62-36 vote and moved to the House on March 18 where it will probably end up in a conference committee.

For a summary of the bill, go to <http://www.opencongress.org/bill/111-h4213/show>.

### Unions cry foul at NEA's Retirement Plan changes

Citing the need for quick action and the excuse that the NEA Executive Committee was meeting anyway, NEA Executive Director John Wilson dismissed a request by NSO, NEASO and AFSE to rescind the Executive Committee's decision to eliminate the 3.5 percent participant contribution cap to the NEA Retirement Plan.

NSO immediately decried the decision in a strongly-worded letter to Wilson. "That you would execute a decision on a matter of such substantial potential impact to Plan participants, our members and constituents, without first allowing the matter to be duly deliberated by the NEA Retirement Board, is beyond disrespectful to Plan participants and the unions and organizations that represent them. It is dishonest."

Labor representatives on the Retirement Board received no prior notification of the change.

Pat Chavez, Retirement Board chairman, expressed his disappointment with the vote. "The Board had been discussing changing the cap on employee contributions. But no vote had been taken because we were doing our duty of discussing and researching the impact the decision would have."

In his response, Wilson promised, "We will do better next time when we have this situation." He also encouraged the Board to continue studying the issue and make recommendations for amendments.

To that, NSO President Chuck Agerstrand promised, "It will be hard to forget what this has done to what was a seemingly cooperative labor/management relationship.

NEA will have to work at restoring the confidence of our affiliate representatives on the Retirement Board."

The Western CBC also sent a letter to Wilson objecting to the actions of the NEA Executive Committee.

To read a copy of the letter signed by NSO, NEASO and AFSE, [click here](#).

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## Just cause—an elastic term

by Marius Ambrose, NSO Vice President of Defense

At a recent gathering of arbitrators, the concept of just cause was discussed. While most contracts reference just cause, arbitrators see it as one of the most general provisions you can find in a collective bargaining agreement.

It becomes an elastic term dependent on the situation, the culture of the work place and the industry in which you are operating in. Just cause is subject to different interpretations and every arbitrator can different decisions with the same set of facts.

Just cause is also subject to the times in which we live. For example, there is more and more zero tolerance for threats and fighting in the workplace. This reflects society. Since arbitrators have been brought in to resolve more of these types of cases, the standard of just cause has been expanded. Threatening behavior in the workplace is no longer dismissed as merely horseplay or shop talk. Arbitrators are ruling it to be a more severe form of misconduct and, therefore, subject to more severe punishments.

As advocates, that means we may define just cause and set a standard. When a contract dictates that an employee can be discharged for a particular behavior—and the employee is guilty of that behavior—the arbitrator has to uphold the discharge. The arbitrator really no longer has the opportunity to determine what is just cause because the parties have already done that.

As the arbitrators concluded, however, most parties find that the just cause standard has worked well over the years. It should remain a key component of any contract.

## NSO Listserv provides communication opportunities for affiliate presidents

In addition to the NSO Website and NSO Contact, the organization provides a presidents listserv to enable communication between leaders and affiliates.

As an affiliate president, here are the addresses to use:

- Contact the NSO Website editor at [www.nationalstaff.org](http://www.nationalstaff.org) if you have information, news or updates from your affiliate.
  - To subscribe to the Listserv, go to [nsopresidents-subscribe@yahogroups.com](mailto:nsopresidents-subscribe@yahogroups.com).
  - To post a message to the NSO Presidents Listserv, go [tonsopresidents@yahogroups.com](mailto:tonsopresidents@yahogroups.com).
  - To contact the Listserv owner, go to [nsopresidents-owner@yahogroups.com](mailto:nsopresidents-owner@yahogroups.com)
  - To unsubscribe, go to [nsopresidents-unsubscribe@yahogroups.com](mailto:nsopresidents-unsubscribe@yahogroups.com)
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## **NRLN pension protection activities may benefit NSO objectives**

When the National Retiree Legislative Network (NRLN) recently met in Detroit, NSO took part in discussion centered on protecting retiree health care benefits. NRLN was originally formed after retired auto workers lost their pension benefits.

NRLN is actively pursuing their goal of protecting the retiree health care benefits through federal legislation.

It was a timely meeting for both NSO and NEA who both share the group's objectives.

"What will we do if a state suffers financial collapse? What happens to staff benefits? We've already seen Ohio try to strip retired staff of their supplemental benefit program," questioned NSO President Chuck Agerstrand.

Given the economic climate, the financial condition of many of NSO state affiliates, and upcoming bargaining, NSO will be monitoring NRLN's strategies.

## **NSO defense program at full advocacy speed**

Protecting members' rights under collective bargaining agreements continues to challenge NSO if the list of pending grievances and arbitrations is any indication.

There's a common thread running through many of the affiliate grievances being filed -- management's refusal to fill vacancies, workload issues, concessionary bargaining, terminations and discipline issues.

Ohio is experiencing a management that is riding roughshod over the staff contract. Currently, there are more than 97 outstanding grievances that range from petty denials of food bills to more serious issues. With upcoming bargaining, NSO will be watching developments there carefully.

Washington professional staff has received a letter from management demanding that they open their contract to negotiate a pension plan revision contained in a memorandum. Rob Day is providing legal assistance in the matter.

"My great concern is that we will see more of this happening. When states are looking to cut, one of the first places they look is staff costs. We have to be wary of any demands to gut contractual benefits. There are other places to save money," commented NSO President Agerstrand.

Jack Schamel, NSO advocate, continues to work with New Hampshire who has been suffering at the hands of unreasonable management. Even though, their Executive Director has taken another position with NEA, there are still a multitude of unsettled grievances.

Issues still remain Indiana as a result of professional and associate staff reductions caused by their financial crisis and trusteeship situation. A new Executive Director has been hired there.

## **Appointments to NLRB are a win for organized labor**

President Obama's recess appointments to the National Labor Relations Board (NLRB) are attorneys Craig Becker and Mark Gaston Pearce, both with strong ties to labor.

Becker has served as Associate General Counsel to both the Service Employees International Union and the American Federation of Labor and Congress of Industrial Organizations. For the past 27 years, he has practiced and taught labor law. He has also published numerous articles on labor and employment law and has argued labor and employment cases in almost every federal court of appeals and before the United States Supreme Court.

Pearce practiced union side labor and employment law before state and federal courts as a founding partner of a Buffalo, New York law firm. He served on the New York State Industrial Board of Appeals, an agency responsible for review of rulings and compliance orders of the New York Department of Labor in matters of including wage and hour law.

As members of the NLRB, Becker and Pearce will be ruling in matters that safeguard employees' rights to organize and to determine whether to have unions as their bargaining representatives. They will also rule on unfair labor practices committed by private sector employers and unions.

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## **Joint meeting finds common ground**

### **Partnership with NCSEA continues despite pension decision**

Is there a shift in attitude by governance toward staff? Is it affecting NSO's relationship with NEA?

Answers to those questions probably depend on the state in which you work but it was discussed when NSO met with the National Council of State Education Associations (NCSEA). Both groups have been having several partnership meetings.

"There was a general consensus that governance attitudes have shifted," said Lynn Adler, NSO Vice President for Defense. "It seems that more senior governance members hold strongly to the belief that the NEA is 'their organization'."

The group also considered the idea that previously, staff was more respected and were considered experts. Now, the attitude is that some governance know just as much—if not more—than staff.

Adler commented, "Staff work is becoming more complicated and the need for relevant training is crucial. Staff is facing issues that even more experienced staff has never before faced."

That opens up the question as to whether or not NEA will be able to continue to fund national conferences. And for NSO, the question is even more complicated—how will training be offered so it is viable?

"NSO has a role in providing good and effective training and we keep reminding NEA of that," said Adler.

More than 90 participants at the NEA Organizing Institute in New Mexico in January were surveyed on the training they received. Participants were questioned on the length of the training, seminar materials, usefulness and the trainers. Sixty surveys were returned and scores were generally high. Comments showed that the General Session speakers and the opportunity to network with colleagues were greatly appreciated.

The question whether the attitude shift of governance is affecting NSO's relationship with NEA may have gotten a more definitive answer. NSO President Chuck Agerstrand and NEA Executive Director John Wilson recommitted themselves to keeping each other informed of any issues which might affect their working relationship.

It wasn't long after this NCSEA meeting that the NEA Executive Committee voted to remove the cap on employee contributions to the NEA Retirement Plan.

## **NSO State Affiliate News**

- A topic for the recent NCSEA meeting with NSO was upcoming state affiliate bargaining and which states may be possible hotspots. Both groups considered South Carolina, New Hampshire and Ohio as situations to monitor.
  - Field assistance and training was provided to Indiana, Minnesota, Memphis, NEASO, Virginia, Oregon, Maine, Alaska, and Tennessee.
  - Janet Stein, president of the South Carolina Staff Organization, reports that the South Carolina Education Association has requested to be in a trusteeship with NEA. Robert Bonazzi, former Executive Director of New Jersey EA, has been named the trustee. This is the second state affiliate in this situation; until recently, Indiana was under NEA's management. South Carolina EA cites a dramatic drop in membership (400 to 700 members) and the concern of that trend continuing as reasons for the trusteeship request.
  - Plans to sell the insurance portion of the Massachusetts Teacher Association Benefits to Hanover are still moving ahead. The state affiliate and the associate staff organization have concluded bargaining dealing with the impact the sale will have on employees. The TA is an enhanced severance package covering employees who will transition to the new company and those who choose to retire or resign.
  - The Southern CBC and Corridor States CBC met in Indianapolis to discuss bargaining goals and standards, CBC guidelines and the responsibilities of affiliates in good standing. NSO President Chuck Agerstrand gave a bargaining status update and encouraged affiliates to be aggressive in negotiations.
  - The Western CBC met in early March to discuss settlement standards. They also drafted a letter to NEA Executive Director John Wilson, objecting to the NEA's Executive Committee's decision to remove the employee contribution cap to the NEA Retirement Plan.
  - Oregon PSO has completed their bargaining survey in preparation for interest-based bargaining between the two parties.
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## **NSO and UMA continue conversations**

Still finding mutual interests, NSO and the Uniserv Managers Association again met in January. Their first meeting was held last fall.

Robin Rose has stepped down as president and Herman Whittier from Maryland is her replacement.

"I'm pleased that despite new leadership, there is still a commitment to continue having discussions," said NSO President Chuck Agerstrand.

The issue of the relationship between staff and governance is still a concern for both groups.

South Carolina Education Association's recent trusteeship situation is the result of a new attitude in which governance is wanting more control over staff matters,

Agerstrand commented, "Here's a situation where governance interfered in staff's ability to do their job of selling membership. As a result, the state has been taken over by NEA."

Earlier this year, Indiana was placed in an NEA trusteeship.

"Both NSO and UMA are concerned about these developments. We need to keep track of what's going on in our state affiliates and prevent any further situations like South Carolina and Indiana," warned Agerstrand.

## **NSO Executive Committee**

President – Chuck Agerstrand

Vice President for Defense – Marius Ambrose

Vice President for Program – Lynn Adler

Treasurer – Ron Goldenstein

Secretary – Mary Henson

Region 1 – Cheryl Singleton

Region 2 – Butch Santicola

Region 3 – Emmitt Jimmar

Region 4 – John Stephens

Region 5 – Kathy Hill

Region 6 – Michael Coleman

Region 7 – Catherine Alexander

At Large-A – Robert Blackwell

At Large-B – Patrick Chavez

Comptroller—Vera Stafford

Communications – Rosemary Carey

Web – Miriam Garcia

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Check out the web site,  
[www.nationalstaff.org](http://www.nationalstaff.org) for the latest news  
and updates on bargaining.

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