



OAPSE News

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United States Census 2010

When OAPSE members are counted for the U.S. Census, we are not only doing our civic duty but helping to determine everything from how federal funds are spent to how many representatives Ohio has in Congress.

That's why it is so important that everyone "Be Counted in 2010" as part of the U.S. Census Bureau's tally of everyone living in the United States. The count is required by the U.S. Constitution to take place every 10 years. The results help communities receive more than \$400 billion in federal funds each year for things like:

- Schools
- Hospitals
- Job training centers
- Senior centers
- Bridges, tunnels and other public-works projects
- Emergency services

In March, census forms will be delivered to every residence in the United States and Puerto Rico. When you receive yours, just answer the 10 short questions and then mail the form back in the postage-paid envelope provided. If you don't mail the form back, you may receive a visit from a census taker, who will ask you the questions from the form. The best way to ensure your privacy is to fill out the questionnaire and mail it back.

The majority of the country will receive English-only materials. Households in areas with high concentrations of Spanish-speaking residents may receive a bilingual (English/Spanish) form. Any personal data you provide is protected under federal law. You can find out more about the Decennial Census on the U.S. Census Bureau's 2010 Census Web site at <http://2010.census.gov>. □

OAPSE Wins Reinstatement, Plus Back Pay and Benefits

A member of Local 721 employed by the Columbus City Schools (CCS) will get her job back and is owed about \$100,000 in back pay thanks to a strong contract and the work of OAPSE's legal department. Carol Mitchell, an account clerk with the human resources department, was first disciplined in 2007. She was suspended for 20 days and then discharged from her job after management found her work "contained too many errors" and that she failed to implement required procedures in processing documents. She was also charged with excessive use of the telephone for personal use and failing to file appropriate requests for leave.

OAPSE Director of Legal Services Tom Drabick, who handled Mitchell's appeal to the Columbus Civil Service Commission, said the city did not back up those claims during the disciplinary process and failed to prove its case to the Commission's Trial Board.

"In the human resources department, Carol processed benefits data and claims, handled open enrollment procedures, and made dependent changes to employee records, among other duties. She was responsible for the record-keeping for about 10,000 employees, and management could only show that she made about a dozen errors in a year. That simply is not a pattern of unsatisfactory work," Drabick said.

The Trial Board agreed and found Mitchell not guilty of neglect. Of the 12 errors management cited, "CCS failed to demonstrate that all of the listed errors should be attributed to Ms. Mitchell," according to their finding. Even if they had, the Trial Board said, the administration "failed to demonstrate this number of errors or the rate of errors is at such a level it warrants discipline."

"As far as the other charges," Drabick said, *"the employer presented*

no evidence that the amount of personal calls nor the time spent on the calls was out-of-line. And the Trial Board found that Mitchell followed policy on making the calls and on taking leave."

After two years of fighting to protect not just Mitchell but all employees covered by Local 721's contract with the Columbus City Schools, OAPSE won her job back with no discipline on her record. Mitchell will be made whole for her time away from work, and Drabick estimates she may receive close to six figures in back pay and other compensation owed to her.

"This is a huge win for Carol, obviously, because she gets her job back and the money she deserves," said Betty Simmons-Talley, President of Columbus School Employees Association (CSEA) and a bus driver in the Columbus City Schools. *"But it is also a win for every employee covered by this contract. It really lets management know that we will stop at nothing to get justice for everyone we represent."* □



Two-year battle leads to a win for Carol Mitchell of Local 721 of the Columbus Public Schools.

Madison Local Continues the Fight For Justice

The members of Local 238 at Madison Local Schools not only put the brakes on management's plan to eliminate high school busing, they won back pay for drivers who were unfairly denied the opportunity to do their work. The final victory took nearly four years, but "it was worth it for every one of the bus drivers and all workers at Madison Schools who now know from experience that our contract has teeth and that we will stop at nothing to enforce it," said Lloyd Rains, regional director who handled the initial grievance.

The case dates back to early 2006, when Local 238 filed a grievance after management eliminated high school bus routes and reduced the hours of work for bus drivers. The district had cited financial hardship, but shortly after it reduced the drivers' work hours, it "discovered" nearly \$1 million, which eliminated the hardship. The union took the case to arbitration and won. When issuing his decision in October 2007, the arbitrator found there was no financial hardship and that the drivers should be put back to work on the routes they were intended to drive.

The school district did not like the outcome, so they went to court to try and vacate the arbitrator's ruling, according to OAPSE Director of Legal Services Tom Drabick. "We prevailed in Common Pleas Court, and then again when

the school district appealed to the 11th District Court of Appeals. The courts basically told the school district that they can only claim a financial hardship when they really have one and ordered management to pay the bus drivers for their lost wages."

The Court of Appeals ruled in favor of OAPSE and Local 238 in March 2009, but the school district had been dragging its feet and squabbling over the amount of the back pay award. However, just before Christmas, the school district resolved the back pay amount with OAPSE. According to Rains, more than \$20,000 was distributed to 28 bus drivers.

"The drivers, the leaders of Local 238 and the entire membership are glad to finally have this case behind them. It was a long fight, but we got the win. And we made it very clear to management that our contract must be followed," Rains said.

He noted that the 28 bus drivers and 120 members of Local 238 could not have fought the long battle alone. "But they were not alone. From the start, Local 238 had the backing of 38,000 OAPSE brothers and sisters across the state and the commitment of their union that we would do whatever it takes to win justice for them and for every OAPSE member."

OAPSE continues to support the drivers and Local 238 in their struggle



against their employer. In June of 2008, the Madison Local School District Board of Education became the first and only board in the state to forcibly and unilaterally privatize school transportation operations under the language in HB66. With OAPSE's leadership, the privatization language was repealed as part of HB1, the budget bill passed in July. On behalf of Local 238 and the bus drivers, bus assistants and bus mechanics, OAPSE challenged the Board of Education in court, at the State Employment Relations Board (SERB), and through the grievance process. The court case is pending in the 11th District Court of Appeals; the SERB case is pending in the Lake County Court of Common Pleas; and some of the grievances are scheduled for arbitration on March 22.

"We could not mount all of these multi-faceted efforts without the full support of OAPSE members throughout Ohio," Drabick said. □

Management's Attempt to Sidestep Contract Foiled

Local 390 of the Claymont Local School District in the East Central District went all the way to arbitration to stop management's efforts to sidestep the contract and win fairness for the cafeteria money counter position, and ultimately all district employees.

Prior to the 2008-2009 school year, the cafeteria money collected from students was transferred to the central office to be counted, recorded and deposited in the bank by a bargaining unit employee in the position of money counter. The money counter position was a 3-hour-per-day bargaining unit position which became vacant when the incumbent was promoted to another bargaining unit position. The board did not fill the money counter vacancy. Instead, the superintendent assigned the duties previously performed by the money counter to the food service supervisor. The food service supervisor is a non-bargaining unit position.

The union filed a grievance because the employer abolished a bargaining unit position and transferred the duties of that position to an exempt employee. The district responded to the grievance by stating that the money counter position had been abolished due to a lack of funds. The superintendent assigned the duties to the food service supervisor in order to save the district the cost of wages and benefits of the money counter.

The arbitrator objected, noting, "The union has established that the employer circumvented the collective bargaining agreement by transferring the money counting work out of the bargaining unit. Therefore, the work must be returned to the bargaining unit."

Further, the arbitrator said, "Any action taken to reduce expenses must comply with the terms of the collective bargaining agreement. Nothing in this award is meant to suggest that the board

may not take reasonable steps to improve the efficiency of the food service operation, so long as the collective bargaining agreement is not violated."



The board cannot, however, transfer duties that were done by the employee in the vacated position to a non-bargaining unit employee, and then claim that it has no need to post the bargaining unit position, the arbitrator said.

"The district claimed that they had the management right to determine the personnel to whom work is assigned. However, the recognition clause denotes who is included and excluded from the bargaining unit, thus determining what our work is," stated Lenora Giles, OAPSE Field Representative, who handled the case for the union. □

Arbitrator: Management Violated Northwest Local Contract

After Local 376 of Northwest City Schools in Southeast District was forced to go to arbitration to protect its members and their work from privatization, they showed the administration that the grass is never greener when you violate a strong union contract.

The case dates back to the summer of 2009, when management decided to unilaterally contract out some of the work performed by the district's custodians. The district contracted with a lawn care service to mow four athletic fields. Most of this work had been done by Allen Sexton, a custodian and member of Local 376. Other custodians were assigned to assist him, so their work was cut by the employer as well.

Management said they hired a private company to save money and make the fields look more attractive. The private company was owned by the parent of a high school athlete who also served as a volunteer coach. The arbitrator questioned the way the district bid the job they awarded to the parent, and he spe-

cifically challenged the district on the amount they said would be saved. Finally, the arbitrator found no evidence that the appearance of the fields improved under the care of the private contractor.

"The district failed to make any part of its case. The arbitrator agreed with us that their actions clearly violated our contract because they did not have a legitimate business reason to contract out our work. And he found that all the employees who lost work as a result should be paid for that work," said Karen Bailey, the OAPSE Field Representative who handled the case for Local 376. *"This case will send a clear message that management cannot ignore our contract. The members of Local 376 do a great job at Northwest Schools, and they will not stand by and let the rights of a single worker be violated."*

She said the arbitration win should derail the administration's plan to contract out additional work, including the duties performed by bargaining unit members in the cafeteria. □



New Senate Bill Targets Public School Bus Drivers

Just when you thought it was safe to be a public school bus driver in our state, the Ohio Senate wants you to think again! Public school bus drivers won a major victory last year when privatization language was removed from state law. Originally, HB66, passed during the Taft Administration, allowed local or exempted village school districts to terminate the positions of school transportation employees for reasons of economy and efficiency and hire a private company if the employees did not have a ratified contract or the contract was within 60 days of its expiration date.

"We got rid of this in HB1, the budget bill passed last July," said Randy Weston, Director of Political Action and Legislative Affairs. *"But the day after that bill became law, SB192 was introduced to target public school bus drivers all over again. That clearly tells us where Senate Republicans are on privatizing our jobs."*

Senators Bill Seitz (R-Cincinnati) and Gary Cates (R-West Chester) are sponsoring the bill in the Ohio Senate and have already had sponsor testimony in the Senate Education Committee. Interestingly, noted Weston, they are from the same area of the state which is home to First Student, one of the leading private bus companies in Ohio.

"It looks like we will have to fight this battle all over again. It's too bad the focus of these legislators can't be the big problems confronting our state, like the economy, jobs, and providing a quality public education to every child in Ohio," Weston said. □

Legislators Improve Rules Again on Background Checks

Legislation passed in the Ohio House and Senate means that for the time being, school bus drivers will be subjected to the same standards in hiring or re-employment as non-licensed school employees.

As a result of HB19, school bus drivers will be temporarily subject to a smaller list of disqualifying offenses that apply to other non-licensed school personnel, such as clerical staff, custodians and food service workers. New rules for these employees went into effect August 27th.

The legislature has charged the department of education with rewriting the administrative rules regarding the employment of school bus drivers with certain prior convictions. This change is designed to recognize that school bus drivers should be held to the same standards as other classified school employees and that they have the ability to be rehabilitated from criminal offenses.

No deadline has been established for the new rules to be completed. OAPSE

will be working with the Department of Education and the State School Board to finalize the new rules.

In addition, effective January 1, 2010, most teacher's aides will now only have to get a Federal Bureau of Investigation (FBI) background check every five years if they already have the Bureau of Criminal Investigation (BCI) background check on file. They had been required to get a new FBI background check every year they had to renew their license, and in most cases, pay for it themselves. The State Department of Education has clarified that educational aides are covered under new language in HB1, the budget bill, that changed this requirement when it passed in July.

"We will continue to work with the House and Senate to win justice for OAPSE members," said Randy Weston, Director of Political Action and Legislative Affairs. □



Governor Taps Johntony for Council



State President JoAnn Johntony has been appointed by Governor Ted Strickland to serve on the Ohio School Funding Advisory Council. She will serve as a non-teacher, non-administrator representative on the council, which will review elements of the governor's new evidenced-based education model, including charter school reporting standards. The Council was created in HB1, the state budget bill passed in July.

"I'm proud to represent OAPSE on this council," Johntony said. "As we all know, Governor Strickland has made public education his top priority. The fact that he included OAPSE in his appointments to this board clearly shows that he values our input in solving the most critical problems facing the people of Ohio."

Johntony is joined on the 28-member council by teacher representatives, a school superintendent, some charter school supporters, and Nathan DeRolph, the man who 18 years ago was the lead plaintiff in the case which challenged the constitutionality of Ohio's school funding law. The Ohio Supreme Court ruled in the coalition's favor four times and found the state's funding system unconstitutional. However, the problem was not adequately addressed until Governor Strickland took office in 2007 with the promise to fix the system.

"It took years for us to get into the mess we are in, and it will take a lot of hard work to make things right for every Ohio school child. But the governor is determined to do this, and OAPSE is committed to helping him achieve this very important goal," Johntony said.

She has served as OAPSE State President since 1985 and was re-elected to a four-year term last May. She serves as President of Girard City Schools, Local 425. JoAnn is a Vice President of the Ohio AFL-CIO, a member of the Coalition of Black Trade Unionists (CBTU) and the A. Philip Randolph Institute (APRI). In January, she was re-elected to serve as President of the Ohio Chapter of the Coalition of Labor Union Women (CLUW). She received her bachelor's degree in Labor Studies and Union Leadership and Labor Administration from National Labor College. □

State Employment Relations Board Changes Election Procedures

After 25 years, the State Employment Relations Board (SERB) is changing the way it conducts representation elections. Effective January 2010, the agency which oversees public sector elections and disputes will conduct representation elections by mail balloting rather than in the workplace.

The parties involved in the election will select a two-week period during which ballots will be mailed and returned to SERB. They will also choose a

date for opening and counting the ballots. SERB will pay the return postage.

According to Gary Martin, OAPSE Associate Director, OAPSE was instrumental in building into the new rule procedural safeguards designed to ensure that every possible eligible voter will receive a mail-in ballot.

"We are hopeful and optimistic that the mail-in ballot procedure will shorten the time from the filing of representation petitions to finalizing elections," Martin said. □

OAPSE Members Re-Appointed to School Employees Health Care Advisory Board

School employees – and all public workers – are facing doubts about their health care. But OAPSE members are confident that they are well represented in their fight for quality benefits while they are on the job. That's because the Ohio Senate recently re-appointed Dave Hamilton and Fred McGraw to their posts on the School Employees Health Care Board Advisory Committee.

Hamilton is a member of the OAPSE State Executive Board from Eastern District and a member of Local 003 in the Zanesville City Schools. He stressed that OAPSE is not a newcomer to focusing on preserving good health care for retirees.

"As an institution, we have been leading the way in the fight to keep our health care strong. Joe Rugola, our executive director, and the OAPSE leadership and staff have made this a priority since I have been involved with our union. And we are not about to stop now," Hamilton said.

McGraw agreed. As one of the top labor experts in the state on health care trends, he brings his experience to the discussion about what should happen to

strengthen health care benefits.

"There is no question these are tough times for public employee health care benefits. As a result, we have to fight harder than ever to keep what we have. So it is important that OAPSE has a seat at the table and a voice in the discussion on what happens to our health care," McGraw said.

McGraw and Larry Malone, OAPSE Director of Education, are making their voices heard for retirees as well as part of the SERS Health Care Task Force. The group will meet regularly to try and find solutions to the retiree health care funding problem.

"The stock market losses last year devastated the pension funds and the health care funds. So it is more important than ever that we are involved in the long-term planning to strengthen retiree health care benefits. OAPSE members and retirees can be sure we will be active members of the Task Force and report back regularly on the group's activity," McGraw said.

SERS is expected to take some action on health care this Spring in an effort to extend the life of the health care fund beyond its current five years. □

**For the most updated information on legislation affecting all OAPSE/AFSCME members, visit:
www.oapse.org**

Budget Fix Spares Public Education, Libraries and Other Public Services; OAPSE Members Make a Difference

Public education, libraries and other critical public services are safe from drastic budget cuts thanks to legislation introduced by the governor and passed by the Ohio House of Representatives and the Ohio Senate with the urging of OAPSE members across the state.

The agreement among the parties ended a long battle over how to fill an \$851 million shortfall in the state budget. The budget hole was created by an Ohio Supreme Court decision which made it impossible to use funds generated by VLTs (Video Lottery Terminals). These funds were included in HB1, the state budget bill passed on July 15, 2009. To raise the \$851 million and avoid cuts, Governor Strickland proposed delaying the fifth year of a five-year tax cut, and the House passed the measure, HB318, with bi-partisan support. However, Senate Republicans had refused for months

to sign off on the plan.

Their stall tactics could have cost Ohio up to \$5 billion in money earmarked for education, meaning local school district cuts of 10 percent in the first year of the budget and 15 percent in the next year.

"Lawmakers clearly heard from OAPSE members that these cuts would devastate our public schools and punish our children," said Randy Weston, OAPSE Director of Political Action and Legislative Affairs. *"It's too bad we had to have this fight, but in the end, we stood with the governor and the House and Senate Democrats and got the resolution we needed to save jobs and a strong public education system in our state."* He noted that OAPSE members generated hundreds of calls to state senators urging their support for HB318 and were instrumental in the grass roots effort to win a

budget solution.

Senate Republicans also were trying to force sweeping changes to Ohio's construction funding laws, essentially threatening the jobs of many building trades workers and employees of minority construction firms. The agreement reached on the bill does not include these widespread changes. Instead, it contains a pilot program agreed to by organized labor that would provide construction options to three university projects around Ohio.

"This agreement to fill the budget hole is a win for all OAPSE members because it avoids job cuts and funds critical services that were threatened by Senate inaction. It is good for every Ohioan that Senate Republicans finally joined Governor Strickland and the Ohio House members who put quality public services to the people of our state at the top of their priority list," said Weston. □

CLUW Election of Officers Announced

The Ohio Chapter of the Coalition of Labor Union Women (CLUW) has wrapped up elections with two OAPSE representatives winning the group's top positions. OAPSE State President JoAnn Johntony won her bid for State President with almost 70 percent of the vote. Her running mate, Jeanette Mauk, took the state vice president spot – also with a high percentage of votes. Mauk is a former

OAPSE member who works for the Ohio AFL-CIO as Field Director.

"Jeanette and I want to thank everyone who voted for us and express our sincere gratitude for the trust and confidence that CLUW members in Ohio have placed in us," Johntony said. She previously served as State Vice President before a CLUW reorganization changed the title to State President.

"We want to continue the good work we have done



on behalf of labor union women and their families, and we are excited about working with OAPSE's leadership to move forward our agenda of justice and dignity for all workers," Johntony said. □

Do You Qualify for 2010 Tax Credits?

Spring is on the way, and so is the deadline to file your taxes. So it's time to be thinking about taking advantage of all the tax credits for which you are eligible. The American Recovery and Reinvestment Act (ARRA) of 2009 included expansions of the Earned Income Credit (EIC) and Child Tax Credit (CTC), and included the Making Work Pay Credit (MWPC) and the American Opportunity Tax Credit (AOTC).

The EIC is a tax credit that supplements the earnings of people – single or married – who work but don't have high incomes. It benefits working families with children as well as low-income workers without children.

Workers raising one child with incomes of less than \$35,463 (\$40,462 for joint filers) may be eligible for an EIC worth up to \$3,043. Workers not raising children but earning \$13,440 (\$18,440 for joint filers) may qualify for an EIC worth up to \$457.

The CTC is a federal tax benefit for each dependent child up to \$1,000. It can reduce a family's income tax and is in addition to the EIC. Most low-income working families will qualify for both credits.

The MWPC is a new tax credit worth up to \$400 for individuals and \$800 for married couples with adjusted gross incomes up to \$75,000 (\$150,000 for joint filers). Workers

must have a valid Social Security Number. If filing jointly, one filer could have a Social Security Number and the other an **Individual Taxpayer Identification Number (ITIN)**.

The AOTC is available for students who are in the first four years of college and are pursuing an undergraduate degree. Workers may be eligible if they paid for "qualified educational expenses" for themselves, their spouses or their dependents and have an adjusted gross income of less than \$80,000 (\$160,000 for joint filers). The AOTC is worth up to \$2,500.

The Center on Budget and Policy Priorities has posted brochures, fact sheets, outreach flyers and posters in English and Spanish on their website at: <http://eitcoutreach.org>. □

**Madison Local Continues
Fight for Justice**
- Page 2

**Legislators Improve Rules
Again on Background
Checks**
- Page 3

**New Senate Bill Targets
Public School Bus
Drivers**
- Page 3

**Budget Fix Spares Public
Education and Other
Public Services** - Page 5

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Annual Delegate Conference Announced

The 70th Annual OAPSE/AFSCME Delegate Conference will be held May 5-7, 2010, at the Crowne Plaza Hotel in Cleveland. The deadline to submit non-constitutional resolutions was February 4, 2010. Resolutions can only be submitted by a Local, a District or the State Executive Board. All resolutions must be certified by the Secretary of the respective subordinate body as outlined in Section 8.06 of the State Constitution of the Ohio Association of Public School Employees. Delegate rosters must be returned to the OAPSE/AFSCME State Office by March 6, 2010, and Hotel accommodations must be made by April 3, 2010, in order to guarantee a room and the OAPSE rate.

Union Scholars Program Announced

AFSCME has joined with the United Negro College Fund (UNCF) and the Labor and Worklife Program at Harvard Law School to co-sponsor a program aimed at giving young people of color a chance to make a difference through the labor movement.

Those selected will be awarded with a 10-week AFSCME summer field placement, during which they will participate in a union organizing campaign in one of several locations across the United States. Winners will receive a stipend of up to \$4,000; on-site housing; a week-long orientation and training; and an academic scholarship of up to \$5,000 for the 2010-2011 school year.

To be eligible for selection, an applicant must:

✓ *Be a second-semester sophomore or junior during the application and in-*

terview process

- ✓ *Major in American studies, anthropology, economics, ethnic studies, history, labor studies, political science, psychology, public policy, social work, sociology or women's studies*
- ✓ *Have a 2.5 grade point average*
- ✓ *Be a college student of color, including African American, American Indian/Alaskan Native, Asian Pacific Islander American, Hispanic American*
- ✓ *Demonstrate interest in working for social and economic justice through the labor movement*
- ✓ *Have a driver's license*

For more information and details, contact UNCF at 703-205-2052 or visit www.uncf.org.

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