**International Commission for Labor Rights**
Critical Assistance for Working People and Trade Unions Worldwide

# The Denial of Public Sector Collective Bargaining Rights in the State of North Carolina (USA): Assessment and Report

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## EXECUTIVE SUMMARY

### Introduction

The International Commission for Labor Rights (ICLR) undertook an analysis of North Carolina's obligation to respect the collective bargaining rights of public workers under domestic and international law. The report also reflects findings of fact from a four-day on-site assessment, spanning from October 31 to November 4, 2005.

### Definitions

"Collective bargaining" is the process by which an employer and a union negotiate the terms and conditions of employment: wages, hours, working conditions, grievance procedures. Examples of collective bargaining in the public sector would include:

- between a school board and a teachers' union
- between a city council and a union representing municipal sanitation workers
- between the administrators of a state hospital and a nurses' union

Collective bargaining in the public sector does not provide public workers with privileged access to lawmakers, and does not result in public workers having any greater say in the legislative process than other citizens.

### Issue

The assessment focused on determining whether a state law in North Carolina, NCGS § 95-98, violated internationally-recognized labor and human rights norms. The law states that collective bargaining agreements in the public sector in North Carolina shall be "illegal, unlawful, void and of no effect." Federal courts in the United States have determined that the law does not violate the First Amendment

of the US Constitution, since their interpretation of the guarantee of freedom of association was that it would not cover collective bargaining. (The United States Supreme Court has not yet ruled on the issue). US Courts also justified different treatment for public workers and private-sector workers, asserting that the former could seek the remedy of approaching the legislature like any other citizens appealing to their representatives. That is to say, as long as public workers and private-sector workers have equal rights as *subjects* of the state, then it is acceptable to grant public workers diminished rights as *employees* of the state, when compared to private-sector workers in their employment relationships. Therefore, an analysis regarding the applicability and relevance of international law was particularly important.

**Legal Framework**

The ICLR determined that the distinction drawn by US courts between freedom of association and collective bargaining is not present in international law. The International Labor Organization (ILO) has stated clearly that the right to bargain freely with employers is an essential element of the right to form and join trade unions, since the primary means by which unions safeguard the interests of their members is through collective bargaining, resulting in enforceable agreements. Provisions within the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, and the International Covenant on Economic, Social and Cultural Rights also support the principle that protections for the right of association must be accompanied by protections for the means of promoting collective interests. International law also does not permit the exclusion of all public workers from collective bargaining; only narrowly-tailored exceptions for "public servants engaged in the administration of the State."

The ICLR supports the view that ILO membership requires compliance with core conventions, and that in any case the right to collective bargaining has attained the status of customary international

law, binding all countries regardless of whether or not they have ratified the relevant conventions. The fact that the US has repeatedly demanded that its trading partners respect collective bargaining rights (through labor standards provisions in trade agreements), and that it has never objected to the jurisdiction of the ILO's Committee on Freedom of Association, is also consistent with the development of the principle into customary international law.

A primary argument cited by the US for not ratifying the ILO conventions related to freedom of association and collective bargaining, is that the existing legal framework in the US, at federal and state levels, offers adequate "parallel protections" for workers. The ICLR, having determined that the US was required to respect the principles enshrined in the core conventions, therefore turned its attention to determining whether the conditions of public sector workers in North Carolina did indeed indicate that alternative provisions offered adequate protections.

**Findings**

The ICLR found significant violations of internationally recognized labor standards in the public sector in North Carolina, which were strongly correlated to the absence of collective bargaining rights. Among these were:

*Race- and gender-based discrimination in hiring, promotion, pay, the exercise of discipline, and termination.* Lacking the rational and impartial systems that should govern employers' approach to these issues – systems which are generally put in place through collective bargaining processes – employees were routinely at the mercy of the prejudices and preferences of individual supervisors.

*Systematic breaches of occupational health and safety norms.* There was extensive, credible testimony from workers that basic health and safety norms were neglected in workplaces that included a psychiatric facility, a state university, and a municipal waste disposal facility. It was even more disturbing that management frequently intervened to suppress employees' attempts to have a voice in

workplace health and safety issues. Management's fears were strongly indicative of a fear of collective employee voice, even in the area of health and safety, which ought to be a site of cooperation, not only in the interests of employees, but of the general public. The impact on workers' wellbeing, and the wellbeing of the citizens of North Carolina who receive compromised services as a result of understaffing, excessive overtime, exposure to hazardous substances etc. is of great concern.

*Arbitrary personnel policies.* The ICLR found that grievance procedures and complaint mechanisms that have been cited as an adequate alternative to collective bargaining are deeply flawed both on paper and in practice: workers have no entitlement to an impartial hearing, but generally have their grievance heard by a supervisor or manager; due process is frequently ignored, such that employees are accused of having broken rules that they were never informed of; there is so much scope for discretion in the exercise of discipline that workers are rendered still more vulnerable to discrimination, particularly on the grounds of race.

**Recommendations**

On the basis of its legal analysis and findings, the ICLR issued recommendations to the federal government, the state of North Carolina, and sub-divisions of the state. These included:

*To the federal government,* the immediate ratification of the ILO Conventions protecting freedom of association and collective bargaining.

*To the state of North Carolina,* the repeal of NCGS § 95-98

*To state sub-divisions,* the instituting of "meet and confer" measures that will at a minimum promote negotiation with workers, even if the outcomes are not enforceable. This recommendation is extremely limited, in recognition of the extent to which state sub-divisions have their hands tied by the provisions of NCGS § 95-98.

## INTRODUCTION

In early 2004, the International Commission for Labor Rights (ICLR) received a request from the United Electrical, Radio and Machine Workers of America (UE), asking it to investigate alleged violations of international law and core labor standards in the state of North Carolina, in the southeast of the United States. In its communication to ICLR, UE contended that a state law prohibiting collective bargaining for public sector workers was both a direct violation of its members' associational rights, and had led to aggravated gender-based and race-based discrimination and harassment of those members. UE requested that ICLR engage in independent fact-finding and legal analysis, and issue a report with conclusions and recommendations with respect to the specific allegations.

An initial assessment by ICLR indicated that there was enough merit to UE's claims to warrant a full on-site investigation. The Commission convened a team from within its network of labor lawyers and labor rights experts, consisting of individuals with expertise in international law and the standards related to, and comparative approaches towards, public sector unionism and collective bargaining rights. These were: Peter Barnacle, Saskatchewan Legal and Legislative Representative for the Canadian Union of Public Employees; Rudi Dicks, Coordinator of Labour Market Policy at the Confederation of South African Trade Unions; Yemisi Ilesanmi, Co-chair of the Youth Committee of the International Confederation of Free Trade Unions and senior official of the Nigerian Labour Congress; Claude Melançon of the law firm Melançon, Marceau, Grenier et Sciortino (Montréal, Quebec); Jeanne Mirer of the law firm Pitt, McGehee, Mirer, Palmer & Rivers (Detroit, US) and co-founder of ICLR; Patricia Juan Pineda, a lawyer with the union Frente Auténtico de Trabajo (México). Jitendra Sharma, President of the International Association of Democratic Lawyers and Supreme Court Advocate, India, ultimately could not join the delegation, but has reviewed this report and underlying data and joins in its conclusions and recommendations. The bios of the team are also attached to this document as Appendix A.

The fact-finding mission and ensuing report were coordinated by Ashwini Sukthankar, Director of ICLR, with the assistance of Mayur Suresh, ICLR Intern through the Human Rights Clinic of Columbia Law School. The assessment was supported in full by a grant from the Fondation des Droits de l'Homme, based in Paris, France.

## METHODOLOGY

ICLR issues this report after extensive fact-finding, gathering opinions and input from interested parties, legal analysis and internal as well as broader deliberation. The process included an on-site assessment from October 31 to November 4, 2005, consisting of :

- individual meetings with public sector workers and members of UE Local 150
- site visits to four different parts of the state: Rocky Mount, Goldsboro, the Triangle (Chapel Hill, Raleigh, Durham) and Charlotte
- discussions with elected officials, including State Senators Jeanne Lucas and Malcolm Graham and the Mayor of Chapel Hill, Kevin Foy
- a public hearing involving the testimony of 17 workers, for which the ICLR team was joined by three independent observers: Bama Athreya, Deputy Director of the International Labor Rights Fund, Washington DC (US); Kevin Kolben, Assistant Professor, Rutgers Business School, Newark, New Jersey (US); and Jonathan Rosenblum, currently Research Analyst at the Center for Media and Democracy, Madison, Wisconsin (US). The transcript of this hearing is attached as Appendix B, and an unpublished comment by Kevin Kolben is attached here as Appendix C.
- an open discussion with members of Hear Our Public Employees (HOPE), the coalition of unions seeking repeal of the North Carolina law, undertaking a comparison of the legal framework in North Carolina and in other parts of the US, as well as in other countries, with respect to public sector collective bargaining

Subsequent to the on-site assessment, ICLR sought a broader range of opinions on the issues of a) whether the bar on collective bargaining for public workers in North Carolina constituted a violation of national and international law, and b) mitigating factors, if any, that might be relevant in analyzing the state's obligation to remedy the violation. ICLR's efforts included:

- sending email requests for input to the Legislative Assembly: the 120 members of the House of Representatives, and the 50 Senators.
- placing a classified advertisement in the *Raleigh News and Observer* and the *Charlotte Observer* seeking opinions from legal experts, public officials, and the general public. Most of the responses requested confidentiality, but the perspectives have all been addressed in the body of this report.

In addition, ICLR requested and analyzed a range of documents, such as:

- the laws of other states within the US related to collective bargaining in the public sector.
- workplace regulations for categories of public workers, such as grievance procedures and personnel policies.
- Data released by State agencies related to the status of public workers in the state of North Carolina, particularly with respect to race and gender.

The organization also requested US submissions to the ILO regarding compliance with Convention 87 and Convention 98, using the Freedom of Information Act, but as of the date of the release of this report, the request was still pending. Any further analysis related to this issue will be appended to this report as an addendum, and posted on the website of the International Commission for Labor Rights (www.laborcommission.org)

## THE LAW

### A. North Carolina General Statute § 95-98[1]

As it currently stands, the statute restricting collective bargaining for public workers in North Carolina reads:

> Any agreement, or contract, between the governing authority of any city, town, county, or other municipality, or between any agency, unit, or instrumentality thereof, or between any agency, instrumentality, or institution of the State of North Carolina, and any labor union, trade union, or labor organization, as bargaining agent for any public employees of such city, town, county or other municipality, or agency or instrumentality of government, is hereby declared to be against the public policy of the State, illegal, unlawful, void and of no effect.

A brief history of the law follows: in 1958, following an organizing drive by the Teamsters union, targeting the police department of the city of Charlotte, North Carolina, there was extensive debate about the right of police officers, fire fighters, and certain other public employees, to join trade unions. Shortly thereafter, the legislature involved itself, and voted on House Bill 118, which as amended and enacted became NCGS § 95-97 to § 95-100, constituting Article 12, "Public Employees becoming Members of Trade Unions or Labor Unions."

NCGS § 95-97 was limited in scope to police officers and firefighters, and barred them from joining any national or international union that was organized for collective bargaining. As noted above, § 95-98 was broader in scope, addressing all public employees. § 95-99 made any violation of the preceding provisions a misdemeanor, punishable by imprisonment of up to two years, and NCGS § 95-100 created an exemption from state "right to work" laws for public employees. (The right to work

[1] This background is for the most part condensed from Ruthanne Okun, "Public Employee Bargaining in North Carolina: From Paternalism to Confusion, *59 N.C. L. Rev. 214 (1980)*; Jason Burton and David Zonderman "Where did this law come from? A History of General Statute 95-98" (Department of History, North Carolina State University),

law required employers to refrain from encouraging or discouraging their employees from participating in a labor organization). The result of the exemption was that public employers were, in effect, free to fire workers who joined a union. As noted in the following section, the law has been challenged in US courts on several occasions, and § 95-97 and § 95-99 were found to be unconstitutional and overbroad.

**B. US Legal Framework**[2]

The Supreme Court of the United States has held that the Constitution protects union membership, under the First Amendment's guarantee of "the right of the people peaceably to assemble." It has also rejected broad distinctions between the constitutional rights of public and private employees, rejecting for example the argument that "public employment...may be conditioned upon surrender of constitutional rights which could not be abridged by direct government action."[3] However, lower Federal courts have taken the position that the constitution's protection of the freedom of association does not extend to a protection of the right to collective bargaining, though plaintiffs have argued strenuously that the two cannot be severed. The courts have held that there is no constitutional bar to statutes requiring employers to engage in collective bargaining, but at the same time have held that statutes or executive orders may be used to curtail employees' rights in this area.

The North Carolina statute, and similar provisions in other states, have been challenged on constitutional grounds, but not successfully. The provisions with respect to North Carolina are analyzed below, in terms of directly applicable law, but those with respect to other states are addressed *later*, in the context of a comparative analysis of different domestic and foreign arrangements with respect to public sector collective bargaining.

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copy on file; J. Ralph Baird "Public Sector Employee Labor Relations in the South East – An Historical Perspective" 59 *N.C.L. Rev.* 71 (1980).

[2] ICLR was significantly assisted in this portion of our legal analysis by an unpublished paper by Elizabeth McLaughlin (Haddix), "Public Sector Unions in a Union-Busting State," March 20, 1999 (copy on file).

**C. Domestic Challenges**

In 1969, ten years after the enactment of Article 12, firefighters in the city of Charlotte asserted a First Amendment challenge to the law, since the City Council had relied on NCGS § 95-97 to require that employees refrain from joining the union – the International Association of Firefighters – as a condition of employment. Both § 95-97 and § 95-99 were found to be unconstitutionally over-broad, but the court found that § 95-98 merely reflected the policy of North Carolina – *as an employer* – to refuse to enter into collective bargaining agreements "and so to declare by statute." It further held that it was within the rights of the state to void contracts entered into by any of its agencies or local governments, since those were creatures of the state. Thus, the issue of collective bargaining rights for public workers was a political matter, where the court would not intervene.[4]

In 1974, the court heard a challenge to NCGS § 95-98 from the North Carolina Association of Educators, who protested the County Commissioners' unilateral discontinuation in 1972 of a plan for increments in teachers' supplements, negotiated in 1967. The plaintiffs asserted that their First Amendment right to speak and advocate on their own behalf was violated by the prohibition, but the court disagreed, holding that the First Amendment only guaranteed that an organization would have the right to advocate, not that the advocacy would be successful. The court also articulated two possible justifications for restricting public sector collective bargaining, which will be commented on at greater length later in this report. First, the court suggested that there could be a dangerous shift in the balance of power because of the inability of the current governmental structure to handle collective bargaining with its employees while pursuing its other crucial functions; and secondly, that public sector collective

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[3] *Keyishian v. Board of Regents*, 385 U.S. 589 (1967).

[4] *Atkins v. City of Charlotte*, 296 F. Supp. 1068 (W.D.N.C. 1969).

bargaining risked giving a "special status" to public employees, possibly sidelining other interest groups with an interest in political decision-making.[5]

In 1981, another case reaffirmed the distinction between (protected) association rights and (unprotected) collective bargaining, and echoed the finding that the element of collective bargaining that *was* protected (freedom of speech) could be asserted within other fora, such as public meetings. Thus, the Court found that representatives of the Firefighters Association in the city of Hickory should be permitted to speak at city council meetings, especially since their working conditions were a matter of public concern.[6] In these ways, courts introduced and reinforced the idea that public discussion fora, "meet and confer,"[7] or grievance procedures offered alternatives to collective bargaining that preserved constitutionally protected rights of association and speech. Courts rejected protection for collective bargaining as a process leading to legally binding contracts.

In addition to these constitutional challenges, public workers in one case successfully asserted that a federal law, passed on the basis of Congress's authority to regulate interstate commerce, preempted § 95-98. Thus, the State Ports Authority, operating railroads from docks to interstate carriers, was required to negotiate with the International Longshoreman's Association on pay scales, under the federal Railway Labor Act.[8] This principle has not been extended to apply to other sectors of public employment, however, for two reasons. At the level of the courts, a 1976 Supreme Court decision held that Congress had limited power under the Commerce Clause to regulate labor relations with respect to the individual states in their role as employer.[9] At the level of Congress, there was

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[5] *Winston-Salem/Forsyth County Unit, NCAE v. Phillips*, 381 F. Supp. 644 (M.D.N.C. 1974).
[6] *Hickory Fire Fighters Ass'n, Local 2653 of Intern. Ass'n of Fire Fighters v. City of Hickory*, N. C., 656 F.2d 917, 921, 108 L.R.R.M. (BNA) 209, (4th Cir. 1981).
[7] This refers to a process by which workers can talk to the employer about issues related to the terms and conditions of employment, but the outcome of negotiations is not reduced to an enforceable written agreement.
[8] *International Longshoremen's Ass'n v. North Carolina Ports Auth.*, 463 F.2d 1 (4th Cir.), cert. denied, 409 U.S. 982, 93 S. Ct. 318, 34 L. Ed. 2D 245 (1972).
[9] *National League of Cities v. Usury* , 426 U.S. 833 (1976).

limited appetite to test this: while several bills have been introduced to establish federal jurisdiction over labor relations with state and local public employees, none have passed.

**D. International Law**

Below, we address the rights of public sector workers in the state of North Carolina to participate in collective bargaining, under international law.

A brief outline of the general sources and principles of the application of international law appears at the end of this report as Appendix D. The section immediately below analyzes how an understanding of the application of international law is relevant to the specific issue of public sector collective bargaining in North Carolina.

**E. International Labor Norms**

As a preliminary matter, it is important to understand that the distinction between associational rights and collective bargaining that operates at the level of jurisprudence addressing the US Constitution, is not present in international law. Associational rights are, to a significant extent, framed with explicit reference to the context of labor organizing, and it is accepted that the purpose of the right in that context is to further collective bargaining in order to improve conditions of work. For example, the Freedom of Association Committee of the ILO has asserted that "The right to bargain freely with employers with respect to conditions of work constitutes an essential element in freedom of association."[10] The Committee hears complaints alleging violations of *both* ILO convention 87, related to the freedom of association, and ILO convention 98, related to collective bargaining, without distinction, as discussed at greater length later in this section of the report.

[10] International Labor Office, *Freedom of Association: Digest of Decisions and Principles of the Freedom of Association Committee of the Governing Body of the ILO.* Geneva: 1996 (4th ed.) p.159, paraphrasing Digest of 1985, para. 583.

The Universal Declaration of Human Rights (UDHR; 1948) is a resolution of the General Assembly of the United Nations and as such, does not bind states legally in the manner of a treaty. However, several of its provisions have been incorporated into international law by treaties (see the Covenants below) and several of its provisions have since been recognized as having the force of customary international law. The UDHR specifically protects rights of association and assembly (Article 20) and the Article 23 elaborations of "the right to form and to join trade unions for the protection of [one's] interests" certainly support a position in favor of locating collective bargaining – as the primary means of protecting one's interests through a trade union – within the corpus of human rights norms.

Both the International Covenant on Civil and Political Rights (ICCPR; 1966) and the International Covenant on Economic, Social and Cultural Rights (ICESCR; 1966) make explicit reference to freedom of association. The ICCPR, which has been ratified by the US, is certainly binding on that country; furthermore, although the US has not ratified the ICESCR, it is commonly argued that most of the provisions have attained the status of customary international law.

Article 8 of the ICESCR is particularly expansive, describing the right to form and join trade unions for the "promotion and protection" of economic and social interests. Both the ICCPR and the ICESCR prohibit restrictions on the right, save in the interests of national security, public safety, and public order. The Covenants also contemplate restrictions on the associational rights of the armed services and police – and, in the case of the ICESCR, the administration of the state – but the exception is still very narrow. The possible applicability of these exceptions will be discussed later in this report, in the context of the specific facts in North Carolina.

In addition to its membership in the UN, the US is also a member of the ILO, which is certainly the most important source of international labor norms. The ILO's Constitution functions as a treaty for its signatories, and thus elements of the Declaration of Philadelphia (1944), which is incorporated into

the Constitution of the ILO, are relevant to this case. Procedurally, Article 19.7 is particularly important, since it requires federal states (such as the US) to bring conventions to the attention of the authorities of constituent states, and to report to the ILO on the progress of implementation. The US has not ratified the particular conventions most relevant to this issue – Convention 87 on the Freedom of Association and Protection of the Right to Organize (1948), Convention 98 on the Right to Organize and Collective Bargaining (1949) or Convention 151 on Labor Relations (Public Service) of 1981. In fact, the US has stated that, under its own Constitution, it cannot ratify these conventions, given the federal system of the country; as noted above, certain rights are reserved to the individual states. This issue is discussed at greater length later in the report. In any case, as a member of the ILO, the US is bound to respect the general principles of the organization, including freedom of association, the right to collectively bargain and non-discrimination in employment.[11]

Furthermore, it is necessary to consider the implications of the ILO's Declaration on Fundamental Principles and Rights at Work. Adopted in 1998, the Declaration defined four areas – freedom of association and collective bargaining, forced labor, child labor and workplace discrimination – as the basis for social justice in the workplace, and designated eight ILO conventions dealing with these issues (including 87 and 98, noted above) as the Core Conventions. Even those member states that have not ratified the Core Conventions are expected to accord them particular weight, and to explain, on an annual basis, the status of the relevant set of rights and justifications for continued non-implementation. These reports are not made public, and are general available only to the ILO's Committee of Independent Expert Advisors, but ICLR had requested them directly from the US through a domestic mechanism, the Freedom of Information Act. The reports have not yet been released, however.

[11] See generally, Lance Compa, *Unfair Advantage: Workers' Freedom of Association in the United States under International Human Rights Standards*. New York: Cornell ILR Press and Human Rights Watch 2004, and at p46.

The Declaration reflects well-established principles and rights that, in the view of many, have come to be customary international law. Individual states, international organizations, private corporations, private lenders and others have treated the principles within the Core Conventions as guidelines for the behavior of employers, contractors, investors – including states – by incorporating them into Codes of Conduct, the ILO's Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy, the UN Global Compact, the Guidelines for Multinational Enterprises of the Organization for Economic Cooperation and Development, and the new Social Standards of the International Finance Corporation, to offer some examples. Indeed, at least one court in the US has held that the rights articulated within the specific conventions at issue here have attained the status of customary international law, stating: "Although this court recognizes that the United States has not ratified ILO Conventions 87 and 98, the ratification of these conventions is not necessary to make the rights to associate and organize norms of customary international law."[12] The US has also incorporated these rights – including freedom of association and collective bargaining – into bilateral trade agreements with partners such as Cambodia, and regional arrangements such as the North American Free Trade Agreement with Mexico and Canada, further reinforcing the idea that it has accepted the applicability of these principles to its own conduct, and has been involved in enforcing them internationally.

No international articulation of the right to bargain collectively has created a broad exemption for public workers. Convention 98 of the ILO, with its exhortation that states "encourage and promote the full development and utilization of machinery for voluntary negotiation between employers or employers' organizations and workers' organizations, with a view to the regulation of terms and conditions of employment by means of collective agreements" (Article 4) does not permit such a sweeping exclusion. Article 5 of the Convention does allow national law to dictate whether the armed

[12] *Estate of Rodriquez v. Drummond Corporation*, 256 F Supp 2d. 1250, (N.D. Ala 2003).

services and the police may organize, while Article 6 states that the Convention takes no position on the collective bargaining rights of "public servants engaged in the administration of the State," but these are narrowly-drawn limitations.

The associational and collective bargaining rights of public sector workers are addressed separately in ILO Convention 151 on Labor Relations (Public Service) of 1981, which was drafted, according to the Preamble, in part because "the Right to Organise and Collective Bargaining Convention, 1949, does not cover certain categories of public employees." The ILO's Freedom of Association Committee has also reaffirmed that the purpose of Convention 151 is to supplement Convention 98.[13] Convention 151 makes explicit that exemptions under national law, if any, must be restricted to "high-level employees whose functions are normally considered as policy-making or managerial, or to employees whose duties are of a highly confidential nature." (Article 1.2)

The ILO's Freedom of Association Committee was set up in 1951 in recognition of the centrality of associational and collective bargaining rights in promoting social justice at the workplace. With its mandate of determining whether a state's laws and practices comply with the principles of freedom of association and collective bargaining as put forth in the relevant Conventions,[14] the Committee hears complaints of infringement, whether or not the state concerned has ratified the Conventions. This practice has been understood as further acknowledgment that Conventions 87 and 98 should be understood as the restatement of internationally-recognized core rights, rather than new principles that states may choose whether to respect.

The fact that the US, despite its resistance to ratifying Conventions 87 and 98, has never objected to the jurisdiction of the Freedom of Association Committee is also consistent with the development of these principles into customary international law, since one factor to consider is state

[13] *International Labor Office*, p.187, paraphrasing Digest of 1985, para. 209.
[14] See Case 1596 (para 373) and Case 1627 (para 32) of the Freedom of Association Committee.

practice that demonstrates the belief that it is bound by the norm. Eleven proceedings have been brought against the US, including one – Case 1577 – focusing on the denial of collective bargaining rights to public workers. The American Federation of Government Employees filed a complaint in 2003, but this is still in the process of being reviewed by the Committee.

Case 1557 dealt with a joint complaint by the American Federation of Labor and Congress of Industrial Organizations (AFL-CIO) and Public Services International (PSI) that analyzed the right of public servants to conclude collective agreements in each of the states of the US, as well as at the federal level. In part, the complaint disputed the facts: it alleged that the majority of public sector employees that had been excluded from collective bargaining on the grounds that they were engaged in the administration of the state – an exclusion permitted by Convention 98, as noted above – were actually ordinary workers with no powers to execute any official authority. According to the complaint, over 4.7 million state and local government employees in *the* US *were* not covered by collective bargaining laws. But the complaint also alleged that there were laws on the books that were on their face a violation of Convention 98, including North Carolina General Statute § 95-98.

The Committee, responding to the complaint, addressed the US government's contention that, under its federal system, it had no jurisdiction to regulate public sector collective bargaining at the state and local levels. It pointed out that the matter had to be decided according to national law and practice, but nevertheless recommended legislation that could protect public sector collective bargaining rights at all levels. The Committee requested that the government "draw the attention of the authorities concerned, and in particular in those jurisdictions where public servants are totally or substantially deprived of collective bargaining rights, to the principle that all public service workers other than those engaged in the administration of the state should enjoy such rights, and that priority should be given to collective bargaining as the means to settle disputes arising in connection with the determination of terms and conditions of employment in the public service."

While UE's request to ICLR noted also that NCGS § 95-98 resulted in the exacerbation of gender- and race-based discrimination, ICLR's legal analysis does not focus on this issue. Since UE alleges that heightened discrimination is one of the effects of the denial of collective bargaining rights to public workers, this is addressed later in the report, as part of the record of fact-finding related to conditions in the public sector in North Carolina.

In conclusion, then, before moving on to an analysis of the facts, ICLR notes that:

- international human rights law as related to the specific labor rights of freedom of association and collective bargaining, apply to the United States as a federal state and hence to the state of North Carolina. The sources, noted above, include treaties, custom, general principles of law and judicial decisions.
- in international law, the denial of collective bargaining constitutes a denial of freedom of association, as distinguished from US jurisprudence that treats the two concepts as separate. Also, in international law there is no general distinction drawn between rights for public workers and those in the private sector.[15]

## FINDINGS

As noted previously, UE Local 150 represents public workers in the state of North Carolina. Relevant data about the public sector in North Carolina, with respect to income, department/ agency/ facility, age, geographic location, race, gender etc. is included in this report as Appendix E. As may be seen here and in other aggregations of data, more than half of public employees earn less than $30,000 a year. UE Local 150 represents primarily low-wage workers, in categories of employment including

[15] Convention 151 of the ILO on Labor Relations (Public Service) of 1981 does focus on the obligations of ratifying states with respect to public sector workers; however, in doing so, it performs the same function as other sector-specific conventions that address, for example, agriculture or mining, where the peculiarities of the nature of the employment result in the need for more tailored protective provisions.

janitorial, municipal services such as waste disposal, cleaning and grounds staff for state universities and other educational facilities, hospital and special services workers, and school bus drivers. The majority of these workers are people of color and are predominantly women.

In this section, ICLR makes observations with respect to violations of human rights and labor rights with respect to public workers in the state of North Carolina and, to the extent possible, attempts to relate these observations to the lack of access to collective bargaining. The findings below reflect summaries of worker testimony in individual interviews as well as from the public hearing, the opinions of experts, analysis of documents such as personnel policies, and data gathered by the state itself.

***Finding: Race- and gender-based discrimination***

From the perspective of experts, workers, North Carolina legislators, and state agencies, certainly the prevalence of race-based discrimination is the overarching barrier to workplace justice in public sector workplaces in North Carolina. Professor David Zonderman of the Department of History, North Carolina State University, has cited extensive data that shows that people of color and women of color are in the lowest pay grades, noting that this is scarcely a coincidence: "There's a 'perfect storm' of race and gender in terms of access to training, access to education, access to jobs. [...] One of the things that clearly unions in collective bargaining would do is to give many of those people access to job skill training and career advancement."[16] Of workers particularly exposed to workplace discrimination, African-American men and immigrant workers are particularly vulnerable.

Some of the data reflecting this reality is available from the state itself. A study conducted by the North Carolina Office of State Personnel in 2002 looking at the position of African-American

[16]David Zonderman, testimony at public hearing, Raleigh, North Carolina, November 3 2006. See appendix.

males[17] in state employment found, in brief, that African-American males had the highest percentage of representation in the lowest salary grades, were subjected to the highest percentage of disciplinary actions, and occupied the lowest percentage of workforce representation. In focus groups conducted by the researchers, statements by a demographically diverse range of employees overwhelmingly expressed the clear perception that compensation and recognition did not increase regardless of how hard African-American men worked; that ambition among African-American males would result in supervisors denying them the opportunity to advance; that African-American males are hired into "cluster positions" at the lowest end of the pay system; that performance evaluation and disciplinary procedures are skewed against African-American males to the extent of showing extreme bias. The recommendations of the study reflect the need for greater communication between employees and management; ICLR notes that collective bargaining is demonstrably the most effective means of institutionalizing such processes.

Extensive testimony from workers interviewed by ICLR points to race- and gender-based discrimination in hiring, discipline, pay and termination. There is another level of impact, in terms of the violation of human dignity, that must also be taken into account. For example, workers at the Eastern North Carolina School for the Deaf testified to patterns of racism that culminated in a very disturbing, humiliating incident. African-American employees entering the school's auditorium for a public celebration found that white teachers had instigated their students, sitting in the front row of the hall, to express racist and degrading comments in sign language.

In terms of hiring and discipline, Dale Jackson, who works for the City of Rocky Mount, stated: "A black guy don't get the job white guys do. They don't get the same punishments as we do. We had a black guy who was late. They took him aside and talked to him about it. They took a white guy aside

[17] *Special Emphasis Project: African American Males in Employment in North Carolina State Government*, North Carolina Office of State Personnel, June 2002.

and talked to him about it. Three days later they fired the black guy and the white guy stayed coming late for five years."[18] With respect to pay, Richard Pettway, also of the City of Rocky Mount, said: "We have some people who have been working for 34 years and they still get $15 an hour. We have white people working for 18 years and making $29 an hour. They say, 'We pay them more money because they're bringing in the money.'" He also testified to discrimination in exercise of disciplinary procedures: "They fired 80 people for being out of their areas for getting something to eat. But at the same time you have white guys coming from way over there, four miles from where they're working, and they get an hour for lunch while we get 30 minutes for lunch. We've been trying to get this taken care of but no one wants to talk to us."[19]

A study conducted by the state with respect to the employment of women indicated problems related to pay equity and "glass ceilings" that inhibited promotion.[20] Again, there was a strong correlation between the problems and the absence of collective bargaining rights: the focus groups reflected perceptions such as: the effectiveness of communication depends entirely on the individual supervisor, since there were no systems in place; women employees are routinely excluded from the full spectrum of communications; there is no space for female employees to voice a difference of opinion about workplace issues. There is no access to the kind of mentoring and training that is required for advancement, and promotions are offered in discriminatory ways to male, especially white male employees. The experience of Penny Meredith, an employee of the City of Charlotte Special Services Division who repeatedly applied for and was denied a promotion, bears out this analysis: "The last time [I applied], when I was told that I didn't get the position, the supervisor told me, laying back

[18]Dale Jackson, testimony at public hearing, Raleigh, North Carolina, November 3 2006. See appendix.
[19]Richard Pettway; testimony at public hearing, Raleigh, North Carolina, November 3 2006. See appendix.
[20]*Special Emphasis Project: Female Employment in North Carolina State Government*, Project Report. North Carolina Office of State Personnel, November 2004.

on his arms, 'This is a male-dominated environment.' And he thought that I was going to accept this as his response? I had five years' seniority over the guy they gave the job to."[21]

With respect to both race- and gender-based discrimination, collective bargaining would offer the possibility of filtering out racism and sexism and instituting enforceable rules to govern the terms and conditions of employment.

***Finding: Systematic breaches of basic norms with respect to occupational health and safety***

The testimony of workers from the state's hospitals, universities, postal system and other services reveals areas of crisis with respect to occupational health and safety in public sector workplaces, in ways that have an impact not only on the well-being of workers, but of the general public in North Carolina. There was extensive and credible worker testimony of supervisors not only neglecting basic health and safety norms, but intervening actively to crush employee initiatives – even those seeking participation in workplace health and safety processes, or promoting critical health and safety measures through lawful channels such as engagement with state agencies or worker-led committees. According to the employees interviewed by ICLR, supervisors' actions pointed clearly to an anti-union animus, and a fear of and resistance to workplace negotiation, underlining the need for collective bargaining as a matter of right.

An employee at the O'Berry Center in Goldsboro, Annie Dove, described the lack of respect for the crucial role of unions in health and safety issues: "On November 12, I had a conference with the safety compliance officer of OSHA [Occupational Safety and Health Agency of the State of North Carolina]. He said that the center had a high rate of injuries and this information showed up on the computer. I was shown pictures of things that had already been cited as violations. The safety compliance officer had asked for the name and the address of the union and he said that when he asked

[21] Penny Meredith, testimony at public hearing, Raleigh, North Carolina, November 3 2006. See appendix.

human resources, they said that it was not that kind of union." When the employee attempted to continue playing her mandated role in the OSHA inspection, as the union's representative, she was terminated abruptly: "While we were on lunch break, the director of Human Resources at the Center asked to speak to me. She said that they had contacted Raleigh, and since my union could not collectively bargain, I was dismissed outright."[22] The underlying issue – of employee participation in workplace health and safety issues – remains unresolved; as employees noted, they have no access to the report of the OSHA inspection, since it is kept in the administration building.

A former employee at the University of North Carolina at Chapel Hill also found that his attempts to negotiate with respect to workplace health and safety were ignored, and then were met with dismissal from his job. Bill Shuler, employed to take care of floors and carpets at the university, found in May 2002 that the housekeeping department was being asked to use a new chemical for cleaning. "About eight months after that, the university housekeepers were starting to report bleeding noses, eyes were blocking, skin was blistering. I told the housekeepers' director that this was going on with housekeepers. And the first answer I got was maybe they were not using it right. I sent the housekeepers over to the university hospital. The doctors there diagnosed it as job-related chemicals and quite naturally I sat down with the Health and Safety director at UNC and we discussed the contents and ingredients of these chemicals and the MSDS [Material Safety Data Sheet] that stated that these chemicals could cause irreparable harm including death. This was on the MSDS sheet that comes with the chemicals. They kept repeating that it wasn't being used right and that the housekeepers needed to be retrained." On the day before the state's occupational safety and health agency came for inspections, Shuler was terminated for working in the wrong building. "When inspectors got there, the supervisors and the housekeeping director was standing behind the OSHA inspectors, and asking the

[22] Annie Dove, testimony at public hearing, Raleigh, North Carolina, November 3 2006. See appendix.

housekeepers, 'Are you sick? Is there anything wrong?' And the supervisor was behind them and so everyone said, everything was alright."[23]

Sonia Valentine, working at the Mail Service Center in Raleigh, described managers' attempts to dismantle a safety committee that was set up, in part, to ensure that employees would get hepatitis shots, since they had to handle large quantities of material – including live chickens and blood samples – that was sent for testing to the offices of the Center for Disease Control in the same building. Supervisors themselves had taken no measures to train employees to deal with possible risks of outbreak, or even to share information about what they would be handling in a given period. As Valentine noted, one of her co-workers had recently been determined to have contracted West Nile virus, and was on temporary disability.[24]

The overwhelming issue, however, was the basic lack of concern for the well-being of individual workers who were being stretched beyond reason. Cedric Williams of the Sanitation Department of the City of Charlotte related his own experience: "Day in and out we're told, 'If you can't get your route over, then maybe you don't need to work here.' We come in and I may pick up four tons. When I say pick up – I'm in the recycling department, and four tons is picked up manually by me. Not by machine, not anyone else, but by me. [...] I have picked up seven tons in one day. This is work for a machine, for a robot, I don't have any robot arms."[25]

As noted by numerous employees, the excessive workload demanded from an understaffed workforce has implications for the general public of North Carolina, which relies on these workers for basic or special services. Dana McKeithan of the Whitaker School/ John Umstead Hospital in Butner, a psychiatric facility, stated that in a context where direct-care workers sometimes take on up to 170 hours in a two-week period, and where employees are often not told that they have to stay for another

[23] Bill Shuler, testimony at public hearing, Raleigh, North Carolina, November 3 2006. See appendix.
[24] Sonia Valentine, testimony at public hearing, Raleigh, North Carolina, November 3 2006. See appendix.

shift until less than five minutes before they are due to leave at the end of a completed shift, workers become "numb and heartless, unaware that they have been burnt out and the non-caring attitude is causing the client grief."[26] McKeithan's perceptions of the problems caused by staffing levels are borne out by a report produced by the University of North Carolina at Chapel Hill, which implicates "poor management practices, lack of staff recognition, low benefits, and also lack of staff training or opportunities."[27] The lack of collective bargaining rights is clearly partly to blame for policies that are so out of touch with the realities of workers' experience of workplace conditions.

***Finding: Arbitrary policies with respect to performance management***

The state of North Carolina's own research shows the widespread perception that performance management systems in the public sector are unfair and arbitrary. Participants in a focus group study asserted that "The system is utilized to justify disciplinary actions after the fact and not utilized as a progressive method of performance and evaluation,"[28]and that application of the discipline system was inconsistent, and often discriminatory along the axes of race and gender.

The policies are on their face a cause for concern. It took the North Carolina Department of Health and Human Services until 2001 to frame a policy on access to workplaces for unions. The policy, as stated, bars employees from being accompanied by or supported by union representatives or others at grievance meetings.[29] The complaint mediation policy of the City of Durham[30] does not offer employees access to an external mediator as a matter of right, but directs them primarily to internal management, in a violation of principles of both logic and fairness, as described by Nathanette Mayo,

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[25]Cedric Williams, testimony at public hearing, Raleigh, North Carolina, November 3 2006. See appendix.
[26]Dana McKeithan, testimony at public hearing, Raleigh, North Carolina, November 3 2006. See appendix.
[27]*Staffing Levels, Standards, and Norms at North Carolina State-Operated Facilities*, Amy Woodell, Dept. of Health Behavior Health Education, University of North Carolina at Chapel Hill, April 28 2005. pp.ii-iii.
[28]*Special Emphasis Project: Female Employment in North Carolina State Government*, p.18.
[29]Memo from NC DHHS, July 17 2001 copy on file.

an employee of the City of Durham: "So if your supervisor curses you and writes you up, you could sit down and talk to him about it."[31] Access to an outside mediator *may* be accorded "at the discretion of the Human Resources Director." (III.F.4) The policy further limits the categories of issues that can be grieved to demotions, suspensions and terminations. Issues related to working conditions, claims of discrimination with respect to the application of city policy or performance standards may be addressed only through mediation. (Issues classification chart, p.8). Again, in terms of the procedures for processing grievances, it is troubling that the City of Durham's Grievance Policy[32] provides for an external hearing officer only at the discretion of the City Manager (Step 3.c). Finally, it is noteworthy that performance evaluations may not be the subject of grievances or mediation.

As Mayo explained in her testimony, the growing restrictions on issues that may be grieved is an infringement on employees' rights – as citizens and as workers – to petition the government for redress. Filing a grievance is also a way of formally documenting both a breach and the demand for a solution: "When I was first employed in the city of Durham we had the right to grieve any and everything. If a supervisor yelled at you, spoke disrespectfully to you, you filed a grievance. And if you had a verbal warning that you didn't agree with, you filed a grievance. If you got an unfair written reprimand, you filed a grievance. If there was unfair application of policy, you filed a grievance. If working conditions were bad, if we were retaliated against, if there was sexual harassment on the job, if we received unfair performance evaluations, if there was safety violation, if there was unfair and inconsistent evaluation of performance standards, if they refused to allow us to take classes, if there was race, gender, age, or sexual orientation discrimination, we filed a grievance. Even if the policies were bad and not in the best interest of the workers or the community, we filed the grievance."[33]

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[30]March 8, 2004. PER-21, R-1 copy on file.

[31]Nathanette Mayo, testimony at public hearing, Raleigh, North Carolina, November 3 2006. See appendix.

[32]May 17, 2004 PER-305, R-4 copy on file.

[33]Mayo, testimony at public hearing.

Furthermore, under the current policies, there is no real possibility of receiving an impartial hearing, according to Mayo and others: "The person in management who deals with the grievance procedure is the same person who does the investigation, who gives the recommendation for termination, who sits in the grievance hearing as the 'neutral party' and passes notes back and forth to the hearing officer, calls recesses to let the parties know what they can and cannot do, and who writes up the summary of the grievance hearing and upholds the initial termination. And this same person goes out to the departments and tells city employees that they have no rights, and that they cannot discuss their disciplinary actions with anyone in their departments or representative and if they do it, that in itself will be a ground for immediate termination."[34]

Such unilaterally-framed policies cover pay scales, promotion and discipline as well, and the scope for discretion results, inevitably, in space for prejudice and arbitrariness. Pettway of the City of Rocky Mount noted, with respect to employment categories: "When you're working at a certain job you can only go so high without them needing to promote you. And so they change the criteria and the name of your job description in order to change the way to get promoted. They switch the name and title around so that you don't have to get promoted."[35] Nina Lacy of the Special Care Center in Wilson, describing the basic absence of due process in her termination, stated that she was not told before her disciplinary hearing that she was facing termination. She also pointed out that the new procedures under which her disciplinary hearing took place had never been distributed to employees, so that they were unaware of the rules in advance.[36] It is clear that a set of procedures arrived at through negotiation between employers and employees would be able to avoid these pitfalls.

***Finding: Harassment and violations of human dignity***

[34]Mayo, testimony at public hearing.
[35]Pettway, testimony at public hearing.

Interviews conducted by ICLR also elicited testimony from multiple workers, pointing to systematic demeaning, degrading treatment of workers, often in ways that reflected anti-union animus, racism, or simple lack of respect for the humanity of working people. Dale Jackson of the City of Rocky Mount stated that when he and other workers began to organize a union, they experienced immediate retaliation and threats. For example, a life-size dummy was hung by the neck in their workplace, and not taken down for three days. "The dummy is across the street from a parking lot where 90% of the black people park. There was a white guy standing under the dummy saying, 'You going to end up like this.'"[37]

Minnie Thompson, a bus driver for the Mecklenburg County School System, described with great pain a situation where drivers were not allowed to use supervisors' bathrooms: "A bus driver's day begins at 4:30 AM and doesn't stop, according to the schedule, for hours or more. Sometime in 2003, upon arriving at the lot at 9:30, the drivers were told that the restroom was broke, and that the nearest restroom was 3-4 blocks away. It was leaked out that the restroom doors was locked to keep the drivers out. [...] The drivers are 85% African-American females who need a clean, sanitized restroom for personal hygiene. The next day we received a signed memo from the supervisor stating that we couldn't use the restroom and he posted it in his office to remind us at all times. It was humiliating. It was inhuman to be treated like that and my dignity was crushed."[38] Thompson was also transferred to another job, she believes as punishment for circulating a petition to change the policy.

The root of the problem, as articulated by Richard Pettway, employee of the City of Rocky Mount, is that the denial of collective bargaining rights creates conditions where supervisors and managers can ignore the daily reality of workers' experience: "When you turn your back on me like this, I can't hear you and you can't hear me. But when we go to a table and face each other, I can tell

[36]Nina Lacy, testimony at public hearing, Raleigh, North Carolina, November 3 2006. See appendix.
[37]Jackson, testimony at public hearing.

you what's going on and you can understand that if you were working down there as hard as we do, then you'd know that you couldn't do it."[39]

## RECOMMENDATIONS

Below, ICLR has developed a summary of recommendations for actions by the state as employer and as sovereign, to address the continued denial of collective bargaining rights and the impact on public workers in North Carolina. This section also addresses, to the extent possible, the justifications cited for denial of these rights by experts, legislators, and citizens, in response to the request for opinions that was issued by ICLR through classified advertisements, as noted above. We do not give attribution to these opinions, since many were made anonymously, or with a request for anonymity. In response, however, we cite the comparative experiences of different jurisdictions that have implemented public sector collective bargaining rights in a range of ways.

### *To the Federal Government:*

As has been noted by a series of prominent international labor rights scholars, it is crucial that the United States ratify Conventions 87 and 98 of the ILO. Lance Compa, for example, states: "This would send a strong signal to workers, employers, labor law authorities, and to the international community that the United States is serious about holding itself to international human rights and labor rights standards as it presses for the inclusion of such standards in new global and regional trade arrangements."[40] But, as Compa notes elsewhere, the status quo is justified on the grounds that ratification would amount to "'back door' amendment" of existing US labor law without following legislative process, since "ratification of an international treaty would supersede pre-existing domestic

[38]Minnie Thompson, testimony at public hearing, Raleigh, North Carolina, November 3 2006. See appendix.
[39]Pettway, testimony at public hearing.

law under the United States' constitutional system."[41] As noted above, the federal structure of the United States has also been cited as a barrier. However, the US passes many pieces of legislation and has signed numerous treaties that bind the states under the plenary powers of Congress, under the Commerce Clause and the 14th Amendment.

The requirements of the North American Agreement on Labor Cooperation (NAALC), a side agreement to the North American Free Trade Agreement (NAFTA), must also be considered in this light. NAALC requires each of the states that are party to it to ensure "the protection of the right of organized workers to freely engage in collective bargaining on matters concerning the terms and conditions of employment," and "to effectively enforce its labor law" to achieve these goals. States must further ensure that labor laws and regulations provide for high labor standards, consistent with high quality and high productivity workplaces. Moreover, states must ensure that there is an independent and impartial process of labor dispute resolution. These are clearly lacking, in terms of the grievance procedures and personnel policies that apply to many public workers in the state of North Carolina.

The US further justifies non-ratification of Conventions 87 and 98 on the grounds that associational and collective bargaining rights are adequately protected through existing legislation. As documented above, and further explored in an article by Richard McIntyre and Mathew Bodah, this is clearly not the case.[42] The result of the US's reluctance to intervene is that the nation's public sector labor relations law is what the AFL-CIO has described as "a patchwork system of federal, state and

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[40]Compa, pp.17-18.

[41]Compa, p.47.

[42]See generally, *The US and ILO Conventions 87 and 98: The Freedom of Association and Right to Bargain Collectively*, Richard McIntyre and Matthew Bodah, prepared for the Workers Rights Conference at Michigan State University, October 2002, copy on file.

local laws without universal coverage, scope or protection."[43] A brief mapping of this "patchwork system" is appended to this report, as Appendix F (pp.3-6 of the AFL-CIO report), which provides an overview of the protections for public sector collective bargaining rights in all the states.

***To the State of North Carolina:***

The US's non-ratification of ILO Conventions 87 and 98 is distinct from the issue of legislative reform in North Carolina. The state should act immediately to repeal N.C.G.S §95-98, which is clearly a violation of international labor norms. As can be seen from Appendix F, there are a number of states in the US (in the North, Midwest, on the West Coast and in Florida) that provide for comprehensive public sector collective bargaining rights, in spite of non-ratification of the Core Conventions in this area.

It is not the role of ICLR to prescribe the form that collective bargaining rights could take, in the state of North Carolina. It is sufficient to map out some ways in which other jurisdictions have dealt with the issue. Among the provinces of Canada, there is significant variation in the treatment of what are known as "parapublic workers." Collective bargaining is enabled through legislation, which ranges from offering substantially the same protections to the public sector as to the private sector, to having entirely different systems. In Québec, the Labour Code was simply amended to include "her majesty" (later, in a modernizing gesture, the state) in the definition of employer, resulting in civil servants being able to organize collectively and negotiate working conditions. In Sweden, the right to conclude collective bargaining agreements is the same for the public and private sectors.

Concerns that have been articulated to the ICLR have focused on the possibility that the delivery of services will be worsened, and budgetary concerns related to increased costs and decreased

[43] *Public Employees Bargain for Excellence: A Compendium of State Public Sector Labor Relations Laws*, Public Employee Department, AFL-CIO 1997, p.1.

efficiency of workers. However, as Professor David Zonderman noted to the ICLR in consultation, there is strong evidence to indicate that collective bargaining improves efficiency and lowers employee turnover and related costs to the employer, thus benefiting both the state and the state's employees. Studies in Québec also support this analysis.[44] Moreover, as the findings above indicate, public services in North Carolina are in a state of crisis primarily as a result of low morale, understaffing and other problems that must be resolved through the implementation of collective bargaining processes.

In practical terms, there are multiple means of eliminating any negative impact on delivery of services through drawn-out bargaining. Some states within the US have responded by requiring strict time lines. For example, Iowa requires the process to be completed by a date established in the statute, after which any unresolved item must be submitted to bringing arbitration absent mutual consent of the parties.[45] Other states statutorily define bargaining subjects as being mandatory, permissive and prohibited. For example, Nevada provides an exclusive list of bargaining subjects.[46] Several states, such as Ohio, Nevada, Florida and Iowa, delineate certain subjects that are reserved to the government employer without bargaining.[47] Jurisdictions outside the US also limit what may be bargained over: the province of British Columbia, in Canada, does not allow teachers to bargain over class size, for example, while Sweden states more generally that public sector collective bargaining agreements may not regulate the aim, focus, quantity or quality of the public service.

Jurisdictions have also addressed fears of potential interference with democratic processes that may arise out of public sector collective bargaining. Mechanisms have included, as in Sweden, special committees to handle the possibility of conflict. Sweden's "public sector special committee," for examples, was set up in 1976 and is composed of seven parliamentarians, three employer

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[44] *Le droit de l'emploi au Québec,* Fernand Morin and Jean-Yves Brière,, 2nd ed. Montreal; Wilson and Lafleur, 2003.
[45] ***Iowa Code § 20.17.***
[46] ***Nevada Rev. Stat. § 288.150(2).***
[47] ***Ohio Rev. Code Ann. § 4117.08; Nevada Rev. Stat. § 288.150(3); Iowa Code § 20.7; Florida Stat Ann. § 447.209.***

representatives, and three representatives from public sector trade unions. It is noteworthy that the committee has had to deal with no more than a single case since it was set up. Other mechanisms include the Bargaining Councils in South Africa, promoted through the Labor Relations Act (1995) to support the conclusion of collective agreement of wages and conditions of service, resolution of disputes, and development of sectoral policies. Two of these councils address themselves to the public sector. Finally, the experience of the province of Québec has been that public sector collective bargaining has served to enhance democracy, as political leaders are obliged to analyze the quality of administrative structures, the division of administrative authority, as well as limits on the exercise of administrative discretion, accountability and productivity.[48]

***To the municipalities, universities and state agencies:***

There are limited possibilities for action at the level of municipalities, state universities, school boards and other creatures of the state of North Carolina functioning as employers. Since North Carolina is not a so-called "home rule" state, there are extensive rights reserved to the legislature, rather than to the municipalities. Since these subdivisions of the state are bound by the provisions of §95-98 and may not engage in collective bargaining, ICLR urges simply that they institute "meet and confer" measures with their employees, as the City of Chapel Hill has done, not as a substitute for collective bargaining rights, but as an interim measure.

[48] Morin and Brière.

# Appendices

**Appendix A**

**Members of the ICLR team for this report**

**Peter Barnacle**
Saskatchewan Legal and Legislative Representative for the Canadian Union of Public Employees

**Rudi Dicks**
Coordinator of Labour Market Policy at the Confederation of South African Trade Unions

**Yemisi Ilesanmi**
Co-chair of the Youth Committee of the International Confederation of Free Trade Unions and senior official of the Nigerian Labour Congress

**Claude Melançon**
Barrister and Partner, Melançon, Marceau, Grenier et Sciortino (Montreal, Quebec)

***Jeanne Mirer***
Partner, Pitt, McGehee, Mirer, Palmer & Rivers (Detroit, US) and co-founder of ICLR

**Patricia Juan Pineda**
Lawyer at the Frente Auténtico de Trabajo (México)

**Jitendra Sharma**
President of the International Association of Democratic Lawyers and Supreme Court Advocate, India. Not present for the on-site work of the delegation.

***Ashwini Sukthankar***
Director of ICLR

**Mayur Suresh**
ICLR Intern through the Human Rights Clinic of Columbia Law School.

**Appendix B**

**Transcript of worker testimony from the public hearing in Raleigh, November 3, 2005**

**Ashaki Binta, coordinator of the International Worker Justice Campaign:**
*Good evening brothers and sisters. Welcome. Lets give ourselves a hand. My name is Ashaki and I'm* an organiser for UE and coordinator for the International Worker Justice Campaign and this is our statewide public hearing for collective bargaining rights in North Carolina. We are very happy to be here. Over the last year we have launched a campaign starting off in Rocky Mount. Meeting amongst ourselves as workers, planning and preparing, workshops and training sessions, we began talking amongst co-workers and amongst ourselves, organizing meetings in several areas about working conditions all over the state. It's been a tremendous year and I want to compliment the leaders of UE Local 150. Could they please stand up.

Also want to talk about our ministers, community leaders and our elected officials from around the state who have participated in these public hearings. As I said we had started in Rocky Mount, then we were in Durham and Chapel Hill. That was September, November, December of 2004 and all through the rest of this year and through September we were having hearings in Goldsboro, Greensborough, Raleigh and Charlotte. All the workers have done an excellent job, have continued to participate and continued to organize even in the midst of this process.

Some amazing things have happened. For those of you who know about it, the town of Chapel Hill took on the issue of collective bargaining rights, being the first town to come out in favour of collective bargaining rights in the public sector and we got good backing from the town council and we are now involved in our first meet-and-confer process. It's a learning process. And it's a part of the building blocks of the process. We don't see meet-and-confer as taking the place of collective bargaining. But meet-and-confer is an important juncture, is something that we should win for all our workers as we begin the fight.

We are not in this fight alone. Its not something that we as workers can do by ourselves or just UE Local 150. We need support from around the state. And we are beginning this process of building a movement and a campaign around collective bargaining, as a part of the HOPE[1] coalition and that's been very important and will continue to be important as we know its going to be an uphill battle. We believe we're going to win it, and we're going to win it together. I know that there's some of the representatives of the HOPE coalition who are here. Lets give them a hand.

Now one of the things that we have studied amongst ourselves that we discussed at the beginning of the campaign, is the significance and importance of international community in this fight. We are building a movement here and we have strong allies and linking of arms around us, but we also have to reach out to our allies from around the world and have begun to do that. And one of the great milestones in the campaign has been the International Commission for Labor Rights who have brought attorneys here from around the world who have helped investigate conditions here in North Carolina, and to see if our conditions are in fact in violation of international law.

Normally what we do is that we want to make sure that the audience has a good understanding of the issue and we're going to bring up Professor David Zonderman from NC State University and he's going take us through a little bit about the issue. And then I'm going to turn to the panel here. Let me

1 Hear Our Public Employees

just introduce them. First of all Ashwini, from India and is the director of the ICLR. Two other guests. Rudi Dicks from Johannesberg South Africa, Brother Stellan Gärde from Stockholm, Brother Claude Melançon from Quebec. Sister Patricia from Mexico, Yemisi from Nigeria. And then Brother Mayur from India. Jeanne Mirer who is the secretary general of the International Association of Democratic lawyers and also a leading member of the ICLR had to leave a little early today. So she left and one of our other jurists Peter Barnacle had a death in his family while he was here, and I just want to give them a hand for their wonderful job. Before I hand it over to Ashwini I want Brother Dave to come up and do a little bit of a presentation for us.

**Professor David Zonderman, North Carolina State University**
I'm going to do a brief presentation mainly on who North Carolina workers are and what their status is now and what the law is currently and how that affects North Carolina workers. Let me begin by thanking my colleagues at the Sociology Department.

We're going to look at North Carolina workers and the conditions they face, the collective bargaining law around the South and the law in North Carolina. First of all, we can talk a little bit about public sector workers. Just a couple things to state here. When we talk about public sector workers in North Carolina we're talking about state, county and municipal workers, and all are subject to the same general statute, and are prohibited from collective bargaining, and are all in the same boat. I include myself. I'm a professor who works for a state university, so I'm a state employee and am subject to the same strictures. We are truly all in the same boat. Whether you're a university worker or a health worker we're all public employees and are all subject to the same restrictive laws.

Where do we work? A large percent of North Carolina public workers are in education as teachers, health care, public correction. The data shows that more than half of public employees earn less than $30,000 a year. Due to many factors, including the lack of collective bargaining rights in the state. Among those people that earn less than $30,000 are those people who have taken second and third jobs to feed their families.

The evidence shows that there are very serious issues of race and gender discrimination in North Carolina public sector worker jobs. There is very troubling data to show that people of color and women of color are in the lowest pay grades. Again I don't think that's just a coincidence. There's a "perfect storm" of race/ gender in terms of access to training, access to education, access to jobs and its all taking place in the North Carolina public sector. One of the things that clearly unions in collective bargaining would do is to give many of those people access to job skill training and career advancement. And also the reports show that African-American men face very difficult circumstances. African-American men are disproportionately subject to disciplinary actions on the job, often taken by white supervisors. Also we all know that a large number of workers in the state come from Mexico, South and Central America. Many of them have language barriers and have problems with their legal status, and are often shunted to the lowest paying, most difficult jobs.

Well, what is collective bargaining? It is the tool that gives workers the ability not only to be recognized but to bargain as an organized group. The evidence is unquestionable that workers that have collective bargaining rights have more power to bargain over the conditions of work, wages, benefits, grievance procedures.

One of the interesting things that's a myth that this chart helps to dispel, is that with unions the state is just going to feather its nest. It's going to fill up the jobs with people who don't do any work. If you look at this chart, the evidence is just the opposite. As union density goes up the number of employees

per 100,000 goes down. This doesn't mean that the unions are forcing people out of jobs. This means that when you have unions in good working relationships in the public sector, it means that the government becomes more efficient. This is quite obvious. If people feel that they're getting a good deal on the job, they go to work the best they can. It doesn't mean that you're not working hard now, but means that you may work more effectively and more efficiently particularly with management and so government works more effectively when union density goes up.

The evidence shows that again usually states with a higher percentage of unionized government workers have a lower turnover rate. This has very important implications for the efficiency of government and also for the cost of government. A higher turnover rate usually means that you've got to spend more money in recruiting workers and training workers; in many jobs new workers are not as efficient or not as effective as old workers. Ideally in any job, public or private, you want to try to keep a worker there. In every state where the unionization rate is over 50%, the turnover rate is less than 5%. Workers are treated better and also usually have better benefits.
Again this also shows that as public sector unionization goes up, average monthly earnings go up. Wages will go up when workers are unionized. Another key one is retirement benefits. States with stronger public sector unionization have better retirement benefits. Sometimes a difference of $100 to $500 a month.

Particularly in the US South, the public sector has no collective bargaining rights. The US South as a long history of anti-union activity and I can do a whole separate talk on that. States that have comprehensive collective bargaining rights are in the Northeast, Midwest and the West coast. All those states have collective bargaining rights. The states in the South or in the Southwest have non-comprehensive public sector bargaining rights. Some states have no laws whatsoever, meaning that the government is under no obligation to bargain. North Carolina and Virginia have statutes that *prohibit* collective bargaining, that ban collective bargaining in the public sector.

This is the text of General Statute 95-98, passed in 1959. So it's been on the books for almost half a century. It declares that any agreement or contract etc. is illegal, unlawful, void and of no effect. So this state has no collective bargaining rights. The law isn't just silent. It says that no collective bargaining rights shall exist and shall be of no effect. North Carolina is also an "employment at will" state -- an employer can treat its employees as it sees fit. Some of you also know that North Carolina is a "right to work" state. Which means that even where there is a union in the private sector, the union cannot get contracts that allow them to collect dues from all workers. North Carolina has a triple whammy, and this is a deliberate legislative policy to make collective bargaining difficult, and the campaign should be to remove these legal road blocks.

Here is what international law says. There are eight conventions of the ILO, and there is language to the effect that fundamental rights of the human being are important and include any sort of collective bargaining. Some of these are codified in a convention in 1949 and later in 1978 that specifically says that public sector workers should have the right to collectively bargain. We are a nation that ostensibly preaches democratic rights in the world, but yet in this country we have many labor laws that are worse than the "third world" that we call uncivilized, undeveloped etc. I'm sure that many of the jurists here that come from the so-called "primitive third-world nations" can show that we in the US are not as clean as we say we are.

So what then is the is the International Worker Justice Campaign? It's driven by 9 to 5 public sector workers campaigning for collective bargaining rights. I have only heard great things about this campaign which brings people to talk about their lives. Clearly this is a case of organization and

movement building, bringing people to positions of leadership and public-speaking is truly fascinating. I'm just doing this because it's my living, but you people who come up here, it means a lot to me. The movement is built from the ground up. You have core committees and workers' rights hearings, petition drives. We can speak to the world through this board of jurists. What I'm hoping you will do is to support the petition drive and will invite people to your local hearings as well and so tonight is not the end of anything. It's just another step in our struggle. Thank you very much

**Ashaki:**
I'm going to ask Sister Ashwini to take charge of the proceedings now. The ICLR has also invited some observers. Ashwini will introduce them and will explain what we're going to do this evening, and will tell us about the ICLR. Sister Ashwini.

**Ashwini:**
Thank you. On behalf of the ICLR we'd all like to thank you and Local 150 and everyone who's come out here today. Briefly, we have observers who've joined us for this meeting. I'll ask them to introduce themselves.

[Bama Athreya, with the International Labour Rights Fund in Washington DC; Jonathan Rosenblum, Labor Attorney from Wisconsin; Kevin Kolben; professor at Rutgers Business School and an international human rights lawyer]

**Ashwini:**
I'll give a brief introduction of what the ICLR is. We're a network of more than 200 labour lawyers throughout the world. We support workers and trade unions by providing legal research and analysis in cases like these. We were asked by UE Local 150 a year ago to put together a delegation to look at statute 95-98 to look specifically at whether this bar on collective bargaining agreements in the public sector violated international standards – including basic protections against discrimination, since we understood that the statute might have a stronger impact on racial minorities and on women – as well as basic political rights including collective bargaining rights. Based on initial documents that UE shared with us, we agreed to send a delegation with expertise in the area of public sector unionism. We've been here since Tuesday and have met with workers, legal experts, lawyers and activists as well as local legislators. And we will continue to invite submissions from legal experts and politicians regarding their opinion of the law. We may also do a follow-up visit. At the end of this process we will produce a report on these issues as well as a very practical overview of how other countries, despite having significantly greater obstacles than the US, have provided public sector workers the rights of collective bargaining. So tonight is the centrepiece of our visit. We requested testimony that will not only tell us of experiences of public sector workers but also their sense of how collective bargaining rights might protect them.

So on to business. I think that everyone will be speaking for five minutes. And after each piece of testimony is over, the panel may ask for more details and clarifications.
The first speaker is Raymond Sanders from Cherry Hospital in Goldsboro.

**Raymond Sanders**
**(employee at Cherry Hospital in Goldsboro and Statewide President, UE 150)**
First I want to take time to honor the lady who refused to give up her seat in Montgomery, Alabama. And we must take a moment of silence. The legacy that she left us is what we're doing today.

On that note, I'd like to thank Ashaki for the wonderful job that she's done. I want all the organizers

who worked on this event to please stand up so that people know who you are. Now I would like to tell the membership of Local 150 that all the while that we have been fighting and struggling for our rights and having problems with our job day in and day out, now we are at a point that the world is looking at us and is hearing us. And I welcome you to this state-wide hearing.

I'm going to begin my testimony with an issue that affects people all over the state. The "overtime comp time" issue. At Cherry Hospital, for the nurses their overtime is paid in cash, whereas the maintenance and dietary staff must take overtime in comp time. But in the service department, they have a 40 hour work week that starts on a Wednesday. If you've done 48 hours by Monday, they don't want you to come in on Tuesday, so it's only comp time-and-a-half. This is why we need collective bargaining, so that we can tell the administrators, No, we'd rather have money. Comp time doesn't pay any of our bills. This is the reason why we're here tonight to speak out and to tell them that they are giving comp time when they should be giving out pay. It's hard enough as it is.

**Annie Dove**
**Employee at the O'Berry Center, Goldsboro**
I've been an employee at the Center for 14 years and 5 months. I'm a direct helper and work on the shift called the A shift that starts at 11pm and ends at 7 in the morning. The subject of my testimony is human resources...

On November 10 I received a letter from a personnel assistant that an OSHA[2] inspection was taking place on the campus and that the OSHA inspector asked that a union member be present at the inspection. I volunteered to be the union representative. Due to the late hour I had to work that night, I informed the personnel assistant that I would come on November 12. On November 12 I had a conference with the safety compliance officer with OSHA. He said that the center had a high rate of injuries and this information showed up on the computer. I was shown pictures of things that had already been cited as violations. The safety compliance officer had asked for the name and the address of the union and he said that when he asked human resources, they said that it was not that kind of union. He explained my rights as sitting on the inspection team. The inspection team was the OSHA officer, the safety officer at the centre, two maintenance supervisors and a union rep. I was the union rep. The union rep was the only person allowed to be present during the interview with the workers. After the inspection of two buildings, as we entered the third building the safety officer saw a serious violation – an electrical box was sitting on the floor when it should've been sitting on the wall. The OSHA safety officer asked the worker and told her that she could be electrocuted if it came in touch with water. She had no idea. There were too many electrical problems in this building which housed the dental clinic, occupational and physical therapy, the pharmacy and the employee health building. On November 15 the Health Compliance officer joined the inspection team. Inspection was done in the building that housed central laundry and chemical storage. She cited the gloves that were used as a violation.

While we were on lunch break, the director of Human Resources at the Center asked to speak to me. She said that they had contacted Raleigh, and since my union could not collectively bargain, I was dismissed outright. The dismissal didn't even give me an opportunity to enter the building where I worked in.

After the inspection we requested some information from the OSHA officer and the center was cited as having 12 serious violations which affected over 200 people. This kind of situation shows that public

2 Occupational Safety and Health Administration (US government agency)

sector workers need collective bargaining. The union should be involved in OSHA inspections and they should be allowed to speak to any union rep about problems and this can be then reported to OSHA safety and compliance officers.

**Bama:**
Were you given any instructions from the management before you had the opportunity to meet with the OSHA officers?

**Annie:**
No. The only thing I wanted to know about it was whether I would be getting paid.

**Rudi:**
The 12 violations that were cited, were these reported to management and what was the response of management?

**Annie:**
They had some people confer with the OSHA inspection. Also, what was found is kept in the administrative building and most workers don't have the opportunity to look over the report.

**Rudi:**
Were the violations reported to management? And did they do anything about it?

**Annie:**
I don't know

**Ashwini:**
Were workers ever consulted about health and safety issues before OSHA arrived, or after the visit?

**Annie**
No.

**Jonathan**
Obviously for the last 14 years you've seen quite a lot of episodes of lack of attention to health and safety issues. To what extent during that time have you seen any consultation with management, any formal structure of any kind, of communication so that workers' knowledge can become part of the response of the centre? I'm interested in a bit of history. Has it ebbed and flowed? Or do they just wait for OSHA?

**Annie:**
Mostly just wait for OSHA. We do see things that are not correct and we might talk about it and it's still overlooked. And once they knew that OSHA was going to be on campus, they had the opportunity to correct stuff before they came.

**Jonathan**
So it looked like they saw OSHA as an authority but not their own workers

**Ashwini:**
Thank you. Now we'll hear from Dale Jackson and Richard Pettway, who work for the City of Rocky Mount.

**Dale Jackson**
**City of Rocky Mount:**
In the city of Rocky Mount in 2004 we started a union. We were retaliated against by them hanging up a dummy. The dummy is across the street from a parking lot where 90% of the black people park. There was a white guy standing under the dummy saying, You going to end up like this. So you can imagine how we feel. So we took a picture of the dummy. That dummy was there for three days until a concerned citizen went downtown and told someone to take it down. The excuse was they used it for a training. But the dummy is supposed to sit on the floor not up in the air from a noose.

A black guy don't get the job white guys do. They don't get the same punishments as we do. We had a black guy who was late. They took him aside and talked to him about it. They took a white guy aside and talked to him about it. Three days later they fired the black guy and the white guy stayed coming late for five years. We have supervisors there, they don't qualify for the jobs but they still hold the jobs, though they say they're going to replace people as soon as they find people. We don't even get paid the same.

**Richard Pettway**
**City of Rocky Mount:**
My name is Richard Pettway and I'm with Union UE 150 and I'm going to talk about difference in pay. When you're a city workman for 30 years and are getting paid only $14 after 30 years. We have some people who have been working for 34 years and they still get $15 an hour. We have white people working for 18 years and making $29 an hour. They say, We pay them more money because they're bringing in the money. I think that's unfair to us as an employee because they're still employees of the city just like we are.

And we have other kinds of disparity in wages. [Within each level] there's the minimum, maximum and mid range. To reach mid range you need to be of a certain criteria. You need O's [for "outstanding"] on the job. When a black main gets O's the supervisors send them down saying that no one can get O's. So they have to go back again and redo the evaluation. And even then you only get a 2% raise. We know that when gas and electricity going up that's not going to pay the bills. If you making a $1000 a month and your light bill is $400. We need collective bargaining not only because of pay disparities because the city managers say that they can only give us a 2% raise, but they're getting a $5000 raise. Now what kind of disparity is that? I'm bringing home $500 a month and they're getting $5000 a month, how can we deal with that. Its overdue to have collective bargaining in the state of North Carolina.

We also have unfair firing. I know some people who take blood pressure medicine and need to eat. But they can't stop to eat because they get fired for getting stuff to eat. They're not allowed to do that because the man says that they're out of their area. They fired 80 people for being out of their areas for getting something to eat. But at the same time you have white guys coming from way over there, four miles from where they're working, and they get an hour for lunch while we get 30 minutes for lunch. We've been trying to get this taken care of but no one wants to talk to us. We cannot be seen in any place out of our areas unless we are told.

We have also been talking about how to get promoted. There's no such thing for an employee. When you're working in this job you have nowhere to go. When you're trying to get promoted to get more money you've got to stay right there. They'll keep you there for 30 years and you'll only be bringing home $15 an hour. When they've got to change it, they change the scales instead. We want to see something done and we'd like to see this collective bargaining go forward

**Ashwini:**
Could you tell us a little bit more about your work with the city

**Dale**
Paving and patching holes in the roads

**Richard**
I change the tyres and stuff like that.

**Ashwini:**
Aren't there personnel policies that should be protecting you from these kinds of injustices?

**Dale**
They don't work for us. We have a policy but its meant to be broken – by them, not by us.

**Bama:**
You said at the end that they change the pay scales. Give me an example.

**Richard**
What they do is, you get an evaluation report. And when you're working at a certain job you can only go so high without them needing to promote you. And so they change the criteria and the name of your job description in order to change the way to get promoted. They switch the name and title around so that you don't have to get promoted.

**Jonathan:**
One of the things that employers are always asserting is that when you've got collective bargaining it becomes complicated with everyone having to sit around a table. It sounds like what you're saying is pretty basic. Is that right?

**Richard**
They don't give us a chance to discuss with them how they make the pay scale. They make the pay scale and the city council approves it or disapproves it. See, everything is contained within the budget. And the city council says yes, then that means that you can get that raise whereas if they don't add it to the budget, then they switch around so that you can't get that raise. We haven't had a cost of living raise in 10 years, but the cost of living is still going up. What they do is they give you give you an across the board raise and you see more in your pay check. So you see more, but its only a 2% raise and they say that it's enough for you. And also, they had a freeze on our pay. They always say that there's no more money that we can raise.

**Jonathan:**
If you had a system of collective bargaining what are the first three things that you would like to see talked about at that table?

**Richard:**
One thing that I would like to see is how do you determine if a person is to get a raise, how do they get promoted. How do we know unfair treatment and unfair hours. Then safety equipment for all of us to use. Some of the equipment they have is very outdated, some of the things they use is not even safe to use. The chemicals that they're using say no handling, but yet you see people handling them on the job.

**Jonathan:**
So what I hear you saying is that you have a lot of information that they don't even ever hear because there's no process for...

**Richard:**
What I'm trying to say that they're turning a deaf ear to people working for them. When you turn your back on me like this, I can't hear you and you can't hear me. But when we go to a table and face each other, I can tell you what's going on and you can understand that if you were working down there as hard as we do, then you'd know that you couldn't do it. And they still don't want to pay you for doing it

**Ashwini:**
Thank you. Now we will hear testimony from Nina Lacy from the Special Care Center in Wilson.

**Nina Lacy**
**Special Care Center, Wilson**
I was an employee of the North Carolina Special Care Center in Wilson since April 1999. I had been an active member of UE 150 since April 2000, and I was the treasure and financial secretary for the Special Care chapter. On September 4th, 2004 I went on temporary disability due to back problems. I had surgery in February of 2005. It failed to fix my back and I continued to be out on temporary disability. At the end of June 2005, I was notified that I needed to appear at a pre-disciplinary conference on July 1 2005. At the conference I was told that I was being given an opportunity to give any information that might possibly influence the decision of the Special Care Center in its decision for possibly terminating me for an incident that had occurred in January 2004. I was accused of making a copy of a document that they considered was confidential. The next day, I went to the conference and the day after I received my termination letter by certified mail. In the letter it said that I was being terminated for "releasing a known confidential personnel form on or about January 2004 to another employee who was not entitled to know the information." When I filed my grievance, the first step of my grievance, I said that the dismissal statement wasn't true. The truth was that that I simply passed on a document that I thought contained public information. And during the investigation I was told that 30 copies of the document had been collected from around the facility, whereas I had only made one copy of the document.

I believe that I would've been counselled or given a strict warning, or anything other than termination, had it not been for my affiliation with UE 150. In my statement I had stated my belief that my affiliation with UE 150, and my concerns and opposition regarding staff working in racially discriminatory environments were the reasons for my dismissal, and I was simply being retaliated against. I also stated that there was not just cause for my termination, according to various statutes that support the right of association. And in my previous workplace I had never received any reprimands or written and verbal disciplines and my employment record, on every one of my five employee evaluations I had received Outstanding ratings with no negative comments. In my 2004 evaluation, which I received after these incidents, this incident wasn't even mentioned. And the investigation of the incidents had been started in January and completed in March 2004.

The grievance process had been changed. It had been changed without notification to workers one way or the other and now the Step 1 grievance process was a mediation before the supervising officer. So I went into the mediation and one of my issues was, Why now? The other big issue was why I was being fired? The other two people who were mentioned in the report and who had made copies had since then

been promoted. But neither of those people were members of the union. I admitted making a copy of the document. And one of the people who had made a copy, who had been promoted, lied the first time saying that she had not made a copy, but only during the investigation when another person said that she had received a copy from her, did she admit to making the copy. I explained exactly what had happened and I also explained that the reason that I copied and passed on the document was that I understood that nurses were trying very hard to get a raise that was overdue. And they had met with the administrator who said that he was frustrated too, and that he sympathized and that he himself hadn't had a raise in five years. And I had been given this document showing that he had a got a very substantial raise a few years ago, and so I passed it on. And I suggested that since it came out of the salary reserves that they make inquiries to see if there were any more salary reserves.

Anyway, since April 2000 I was very active in the union and I had done a variety of things especially in helping people post letters and challenge management especially putting written materials together. I worked in an office and people that were working on the job didn't have access to things and weren't comfortable dealing with a lot of laws and I had some background in dealing with personnel policies and grievance procedures. So I was watched for this reason. But I still helped compose several petitions that challenged management. I think I have a couple of these... I was being watched constantly for my activities. My boss, who has subsequently left, told me that she had been watching me. She said that management had instructed her to catch me in something. She also told me that when this investigator was there investigating these incidents that she had heard him talking to the facility administrator and said something to the effect of "I think we've got her now." He also said that I had been passing out fliers to five people during break, and since break is paid time as opposed to lunch, which isn't, they had something to fire me on.

But I didn't get fired back then. They waited. He also said to me, the investigator, that he didn't understand why I would want to aggravate management that way and that I was violating state policy by not creating a harmonious environment. Anyway, so I provided management with some of the documents that I had put together. One of them was a memo to the administrator from May 2002, saying that workers of the department of Environmental Services were being asked to do jobs that other people were absent from, and that these were jobs that they had applied for over and over again and they knew that they would never get. So they wanted management to know that they should get paid for doing *that* job and that they resented that they had to do things which were basically designated as white people's jobs which they were never going to get.

Another memo went to Todd at Personnel and Sonia Barns in Community Affairs saying that we were sending all these memos to management and that they weren't responding to these issues. We had an investigator come as a result of some of these memos having to do with disciplinary and discrimination issues. And there were records of stuff, but they never got back to the employees and they recommended things like sensitivity training. None of those things ever happened.

To conclude this, the mediation process was interesting. I represented my case and the management person presented hers. The mediators met with us separately. To me they said that they'd rehire me, but that I had to resign the same day. I said absolutely not and told them that this was ridiculous and that they were singling me out from everyone else. Anyway we did four hours of mediation the first day and decided to go on for mediation the next day. They wanted me to also agree that I wouldn't talk about the mediation process, because of all the information that I had shown them and I had told them that I wanted to go on to the last step of the process, where all this other information about the center would get exposed.

Bottom line was that we didn't settle at the mediation process, they skipped Step Two for me, went on to the hearing process, and we settled once the hearing officer got involved. So I'm still on temporary disability, but I don't have my job back, but they did manage to prevent me from getting up in front and putting out all that information.

**Claude:**
When you were called for the disciplinary meeting, were you given written notice that you could be discharged and for what reason, prior to the meeting?

**Nina:**
I'm having trouble with my memory, but I don't think I was told. I kind of had an idea of what the meeting was about, but no. No, I didn't get written notice of what it was.

**Claude:**
I understand that you were not allowed union support or representation during the meeting?

**Nina:**
Interestingly enough, they accidentally – and I say that because the woman who was involved in it really didn't know enough about process and procedure – they let Saladin sit in on the meeting. At one point he tried to open his mouth but they made it clear to him that he was only there just to observe, and he did get a few shots at him.

**Claude:**
You said that these procedures were new, were these new procedures distributed to all persons in writing?

**Nina:**
Absolutely not. The rules say 30 days. When I followed up about it, I talked to about at least 15 employees none of whom had any idea that there was any change. And I talked to employees at other institutions as well and when I talked to one of the managers at Special Care and I said, "Do you even know," he said, "Oh it was mentioned at a meeting." That is their way of distribution to employees. They say that the managers are supposed to let the employees know.

**Kevin**
How many people work in your place?

**Nina**
My work place is one of the smaller facilities. Its got about 380 people

**Kevin**
Do you know how many are in the trade union there?

**Nina**
There are about 62, 63... we've been as high as 80 at one point. Our percentage is high compared to some of the other institutions. But people are terrified of joining, and if they are members of the union, they're terrified of anyone coming to know that they're members of the union.

**Kevin**
Have you heard the management make any negative statement about the union?

**Nina**
Absolutely, but they don't do it as much because it's finally gotten through to them that they can't do that, you know, that it's illegal and that they could get into a lot of trouble. Initially it was intimidation and threatening of employees.

**Ashwini:**
Thank you. Now we'd like to hear from Dana McKeithan

**Dana McKeithan**
**Whitakers School/ John Umstead Hospital in Butner**
Good evening everyone. My name is Dana Sandra McKeithan and I am employed as a youth program assistant at the Whitakers School in Butner. I humbly greet you this evening to discuss the issue of forced overtime under the policies and procedures of the Department of Health and Human Services of the state of North Carolina. It is called the old blunt stick. This system as we know it is called the red dot. The red dot is utilized when an employee calls out of work for emergencies or sickness. I would submit to you three examples of how the red dot is utilised for forced overtime. Now mind you, I work in a psychiatric hospital and sometimes the employees do not know that that they might have to stay for another shift until 2 to 5 minutes before they depart at evening, or afternoon or mid-morning.

Example No. 1. An employee's hours are from 7:30 to 3:00. During that time he or she has to prepare meals, keep doctors' appointments, put out fights, therapeutically restrain students, do the grocery shopping, counsel students, take the students to the hospital. At 3, as she or he is to depart, they are told to work another shift due to being understaffed or due to a call-out. The ball begins to roll again on second shift. An employee can work up to 48 hours in a three-day period.

Example No. 2. An employee of 30 years who has worked 8-10 hours may be told at the last minute that they have to stay aboard for another shift. Mind you, a red dot sheet with your name on it is posted. A red-dot sheet with your name on it is posted from month to month. If your name is there, then you know you'll have to stay. If your name is not there, then the next person up from the dot has to stay at the last minute. In some parts of the state, the employees have to put their names in a hat and they shake it up, and someone picks out a name and if your name is picked, you have to stay another shift. Pre-scheduled red dots are in the duty roster sometimes one to two months in advance. Prior to that shift, the person will already be working that night.

And this is for clients who suffer from severe mental issues, who are a threat to themselves and to others, such as hallucinating, periods of extreme physical rage, sometimes cutting on themselves to the point that human flesh is exposed. The direct care workers has now become numb and heartless, unaware that they have been burnt out and the non-caring attitude is causing the client grief. The state has put up a sign-up sheet so that people can make all the overtime they want. Some people have made upto 170 hours in a two-week period. I have a letter here by the Granville County President of UE 150. Will he stand? He had written to the department about these orders. Now we have created a new monster called greed. I want to get overtime because I want to fix up my car, or for bling bling (which is expensive jewellery). I now sign up because it's Christmas, and I want to buy my son a $150 jeans, not one pair but three, because I can sign up for all the overtime I want. The state requires that there should be no more than 24 hours of forced overtime. Some people have worked 170 hours in two weeks. No longer is anyone invested in patient care. As I have heard personally, "Well miss, these kids going to go to jail anyway, or she'll die anyway, or that patient over there who is suffering from schizophrenia or from alcoholism, well they're crazy in a way. They're going down anyway. But I'm

going to make a quick buck. So girl you got to get all the overtime you can. The state doesn't care, they only want a body in the building."

Now I ask you, an unarmed soldier cannot truly fight. Who truly loses in this? Is it the sick and infirm? Is it the employee who is burnt out? Is it the people of the North state's loved ones? Are we in violation of international law? Are we in violation of public law? Are we in violation of god's law? We are people, public servants of UE 150 and we are demanding collective bargaining as a right, to stamp out this wretchedness. We are more than confident in this battle. Now be not deceived, O North state, for god is on the march. For whatsoever a man sought, that shall be done. And on this note, UE 150 can do all things to crack this. Collective bargaining now. The eyes of the world are on you, North Carolina, who will answer the call?

**Ashwini:**
Does anyone have any questions?

**Bama:**
Have employees refused to do overtime, and what happens if they refuse to do it?

**Dana**
We had one man who had put in 25 years of his life, and was 53 at the time when he told his employer that he had put in 48 hours and that he was tired and couldn't work any more. The employer told him that if he walked out the door, he'd be fired. He walked and he's no longer with us.

**Nathanette Mayo**
**Employee of the City of Durham**
It's always difficult to follow Dana. My name is Nathanette Mayo and I'm a member of the Durham Chapter of UE 150, North Carolina Public Sector Workers' Union. I've been employed with the City of Durham for the past 20 years so I've seen a lot in the time I've been here. I want to take this opportunity to thank the jury for coming and to thank my brothers and sisters in UE 150 for coming up here to tell our testimonies. I'm taking the opportunity to tell you about unfair grievance procedures and policies, specifically in the city of Durham, but you could transpose the problems we have in Durham to any city in the State.

When I was first employed in the city of Durham we had the right to grieve any and everything. If a supervisor yelled at you, spoke disrespectfully to you, you filed a grievance. And if you had a verbal warning that you didn't agree with, you filed a grievance, if you got an unfair written reprimand, you filed a grievance. If there was unfair application of policy, you filed a grievance. If working conditions were bad, if we were retaliated against, if there was sexual harassment on the job, if we received unfair performance evaluations, if there was safety violation, if there was unfair and inconsistent evaluation of performance standards, if they refused to allow us to take classes, if there was race, gender, age, or sexual orientation discrimination, we filed a grievance. Even if the policies were bad and not in the best interest of the workers or the community, we filed the grievance. As citizens and workers we had the right to petition the government regarding our concerns and demands and seek redress. Filing a grievance served to formally document breaches and unfair treatment and demanded that the government solve a problem.

But policies are only as good as the current city manager and administrators. And in our grievances we used to have the right to have an employee representative there, and a support person. But without the right to collectively bargain, firmly in policy and in a contract with the city, anything can happen with

the change of the city manager. Without the right to collectively bargain, policies can be changed by whoever is hired as the manager. In May 2004, our policy was changed to "more effectively resolve" employee grievances. To do, that the administrators changed the policy so that employees could only grieve suspensions, demotions and terminations. And workers in those grievance hearings could only have an employee representative and no longer a support person. And in addition to that, management developed a complaint mediation policy so that workers could sit down and talk about their problems with management. We could resolve problems by "enhancing existing communications." So if your supervisor curses you and writes you up, you could sit down and talk to him about it. And you *might* get the write up taken out of your files, after 6 months or 18 months and not the 3 years that it has to take typically to get something out of your file. That's the mediation process. You don't get a reprimand or a discipline, and the write-up stays there a little less of the time, but absolutely nothing happens to the supervisor that curses you up. Because it's not your problem if the supervisor has a problem with you.

In the years that I've been working with employees in grievance procedures, I've never seen a bad supervisor dealt with in the mediations. The employee never comes out on top, and nothing ever gets wiped out of their files or off their records. It simply serves to make it easier for management to move them one step closer to termination, because these things just pile and pile and pile in an employee's file. Workers' charges of discrimination, harassment, unfair evaluation, poor working conditions, reductions in workforce can at best simply be investigated and in most instances there is no recourse whatsoever.

So then the person in management who deals with the grievance procedure is the same person who does the investigation, who gives the recommendation for termination, who sits in the grievance hearing as the "neutral party" and passes notes back and forth to the hearing officer, calls recesses to let the parties know what they can and cannot do, and who writes up the summary of the grievance hearing and upholds the initial termination. And this same person goes out to the departments and tells city employees that they have no rights, and that they cannot discuss their disciplinary actions with anyone in their departments or representative and if they do it that in itself will be a ground for immediate termination.

So those are just some of the things that if we had collective bargaining in North Carolina we know would be completely different. This issue of grievances and how grievances are handled would be completely different and workers would have some essence of a level playing field. Thank you.

**Claude:**
As I understand it, there is nothing in the grievance procedures that allows for a independent, neutral, third party to hear your point of view?

**Nathanette**
The people who hear the grievances, we can elect to have a panel where everyone is an employee of the city. We used to be able to get outside people to come in, but that's no longer the case. So now everyone's an employee of the city so everyone has a direct link and they get paid out of the same pocket. And their interest is usually to maintain the status quo.

**Claude:**
In the mediation procedure, who is the mediator?

**Nathanette**

Some one from inside the administration.

**Claude:**
Do you have the choice between grievance procedure and mediation or is just that a new system has replaced grievance?

**Nathanette**
You can only grieve termination, suspensions and demotions. So there are some issues that you can only mediate, so you don't have a choice

**Claude**
If you aren't satisfied with the decision of the person who heard your grievance, do you have an appeal before an independent body?

**Nathanette**
No you do not. They changed that process too. You don't get to go before the city managers to appeal your grievance. They get a written summary and decision of the grievance written by the people who heard your grievance, and they render their decision based on that.

**Claude:**
That decision is rendered by .... Can you appeal it before a independent arbitrator?

**Nathanette**
No, you cannot. You can file suit maybe.

**Claude**
Would it be possible to have a copy of the grievance process and policy?

**Nathanette**
I sure do.

**Claude**
It'll be very interesting to read that.

**John:**
As you described the change in the policy, it sounded like something that came down like a lightening bolt. Was there any participation or discussion at all in changing the policy? By what language and process did it arrive?

**Nathanette**
It arrived in the form of a draft policy that went out throughout the city administration and we had no input as to whether anything should be changed or anything like that.

**Bama:**
I want to be clear that I understand you correctly. If there is a case that an employee is being sexually harassed, is there any alternate procedure or does she actually have sit down with her supervisor and talk about it?

**Nathanette**

She can ask that they do an investigation, but there is nothing that really binds them. There's no formal report that goes back to the actual person who made the complaint against the supervisor.

**Ashwini:**
Who conducts the investigation and who does the report go to?

**Nathanette:**
The investigation is done by the same "neutral party" I told you about

**Rudi:**
What is the final recourse?

**Nathanette:**
Because the grievance is only for suspension, termination or demotion, if the employee is not in agreement with the result, the employee can go outside the city and file a private lawsuit against the city. That takes years and years. There is no internal process that deals with that.

**Ashwini:**
Thank you. Now we have Bill Shuler, housekeeper at UNC-Chapel Hill

**William Shuler**
**(Former) Housekeeper, University of North Carolina at Chapel Hill**
My name is Bill Shuler. I'm a former employee of UNC-Chapel Hill. I was hired as a floor technician assistant. What I would do is go around take care of the floors and carpets and everything else. It's a division of housekeeping. We each have a zone, usually 10 to 15 dorms or class rooms.

In May 2002 the university had a new chemical interjected into the housekeeping department, coming from Minnesota Mining Company. And they said it was a safe drug. About eight months after that, the university housekeepers were starting to report bleeding noses, eyes were blocking, skin was blistering. I told the housekeepers director that this was going on with housekeepers. And the first answer I got was maybe they were not using it right. I sent the housekeepers over to the university hospital. The doctors there diagnosed it as job-related chemicals and quite naturally I sat down with the Health and Safety director at UNC and we discussed the contents and ingredients of these chemicals and the MSDS[3] sheets that stated that these chemicals could cause irreparable harm including death. This was on the MSDS sheet that comes with the chemicals. They kept repeating that it wasn't being used right and that the housekeepers needed to be retrained. At the meeting with the health director, he asked, If the chemical was dangerous shouldn't it be removed, and they said that if used right it was not dangerous. So I interjected that a hand grenade wasn't dangerous if you had a pin.

That was in November of '03. We kept pushing for the removal of these chemicals till the spring of '04. We filed a report for OSHA. Students who are here now, worked and gathered petitions from the housekeepers that were using the chemicals and wrote a letter to the chancellor and wrote of the effect of the chemicals on the housekeepers and they referred to the Director of Health and Safety. Around about May, we got an answer back from OSHA that they would initiate inspection of these chemicals... I think it was a day before inspectors were to come for the inspections, I was terminated for working in the wrong building. When inspectors got there, the supervisors and the housekeeping director was standing behind the OSHA inspectors, and asking the housekeepers, Are you sick? Is there

3 Material Safety Data Sheets

anything wrong. And the supervisor was behind them and so everyone said, everything was alright. Quite naturally, they didn't want me around when the inspectors were there. We're still working on that case. They still got that chemical there. We're filing a brief. The NAACP which I teamed up with, and now the labour chairman of the Chapel Hill branch of NAACP, and we're still working with the housekeepers to get rid of that chemical.

Also, they have a team cleaning situation that is coming up in UNC Chapel Hill, means that all the housekeepers would do one thing for eight hours instead of cleaning the dorms and interacting with the students and professors. That is detrimental to morale, and doing the same thing for eight hours is detrimental for health.

**Ashwini:**
Thank you

**Ashaki:**
We have three more testimonies, and we need to have everyone make their testimony as succinct as possible so that we can get all the testimonies in.

**Robin Graham**
**Cherry Hospital, Goldsboro**
I'm Robin Graham and I worked with Cherry Hospital since high school. I just retired in October 2004, after 30 years of service. My case has been going on since January 2002. I have documents to back my statements as well as signed statements from all my co-workers. In 1992 I was appointed to chores duties on the days our permanent chores person was off. December 31, 1992 she retired. I was the senior staff member who was left. In June 1993 I was offered and accepted the chores position. I did all the same work as the permanent chores person, but I wasn't paid the same.

I did not know it at the time, but there was a policy governing promotions and temporary positions. The position I was in was taken from me in January 2002, and I was put in a rotation basis. When I enquired why, I was told by Mr. Carmichael, Employer-Employee relations officer, that they had found out that they was breaking labor laws. I contacted UE 150 staff and they helped me file a grievance, which I was denied. The response I got back, was that I did not present a grievable matter. I went through all the chain of command and administration, Cherry Hill and DHHS[4] in Raleigh and was denied. Neither one tried to enforce their own policy. I was never given a salary pay grade. UE 150 were the ones who helped me and made me aware of a policy dated Dec 1993, but still to this day I am being denied. You'd think that with all the administrative staff aware of this, and officials in Raleigh, employee relations officer, manager, Secretary Lewis Owen, Representative Page, that it would've been solved by now. So I want to argue here today that we need collective bargaining. Not just for me, but for all that's coming up.

**Ashwini:**
Any questions?

**Jonathan**
We've heard from different people about problems with grievance and grievance policies. When your grievance policy was denied, did it seem like a final denial? What were your options if any?

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4 Department of Health and Human Services

**Robin**
I didn't have any options. They just told me that I did not have a grievable matter and I was told by that anything that I did not agree on was grievable.

**Ashwini:**
Thank you. Now, Sonia Valentine from the Mail Service Center in Raleigh

**Sonia Valentine**
**Employee at the Mail Service Center (MSC), Raleigh**
Good evening. My name is Sonia Valentine. I work with the mail service center, which is a state-run post office, similar to the federal post office that is state-run. We've had several issues going on at the service centre. Most of it happened around organizing with UE 150. We've gone through the same thing everyone else has – being harassed, and being fired, and whatever.

What I'm talking about today is one of the issues that are going on, which is the health and safety issues. The mail service center opened in 1999. When they opened the facility, they did not inform employees about the hazards that they would be constantly faced while working there. Because as you know, with the CDC in that building, any kind of diseases, and their samples, whether it be syphilis, or HIV or West Nile, whatever kind of bad stuff that has to be tested actually comes through the mail center. And so we have employees in the mail service center that handle this mail everyday. It also includes dead heads and now, because of the threat of the outbreak of chicken flu, we actually receive live chickens that come through. And there aren't many employees that know that but I happen to be one of them that actually knows that there was a meeting today about receiving live chickens. The employees at the mail centre are exposed to viruses and anything you can think about. What they did not tell us, and what they did not do for the employees and protect them from these diseases.

When the union came in, what we decided to do was to form a safety committee, we finally got it done and in that time we've been able to basically have a committee and get hepatitis shots for the employees. We only got this done in 2005, which is something they should've done in 1999 and it wasn't until the safety committee came in and said we need the shots to protect the employees to protect them from viruses and blood samples that are coming through. I mean we got an employee out on temporary disability with West Nile. We don't know if he got it within the center or if he got it at home, but we just know that this person who works there has West Nile. There are a lot of things happening, and right now there's a process of them trying to dismantle the safety committee. We had a director who was terminated because he did not have a problem with UE being on the facility, so they had a problem with him. So he's no longer there. There are a lot of things.

One of the biggest concerns now is that we're in a large space that has no air vents. We have the same air circulating through the building. And one of the things that the safety committee did when it came into place was to inspect the air vents. Everyone in that facility they all had what we call an MSC tickle. If you're there for a long time, you get headaches, you got a tickle in your throat. We had OSHA come in and do an inspection and they sucked the air in a tube. But when one person gets sick, we all get sick. When they finally came in to change the vents 5 years after we'd been there, there were no filters and piles of dust hit the floor and everyone was like, "Okay..." And they tried to cover it up and this happened a year ago, and for a year, no one has come by to change the vents. So one of the biggest problems is stress, and stress causes illness, and because we live in a closed environment, if one person gets sick we all get sick.

**Ashwini:**

Thank you

**Rudi:**
Since mail services is an extension of the postal service, is there a policy that...

**Sonia**
There are no policies. The only thing we've done thus far is through petitions and we've managed to get hepatitis B shots. There are no policies that protect us. There's also no training that happens for people who comes through our doors.

**Ashwini:**
You said that there's an effort to dismantle the safety committee. Can you say something more about that?

**Sonia**
Because they're so afraid of the UE 150 and they associate the safety committee with UE 150 and they try to dismantle everything that's happened. Like I said with the director that was there previously, he didn't block these things from happening. They're trying to dismantle everything including the safety committee, and to put fear into everybody including UE.

**Jonathan:**
Is the safety committee created solely by virtue of the communications that go on between the union and the mail center? Is there a basis now in other areas of government, for safety committees to be set up?

**Sonia**
The safety committee is a direct effect of UE 150's petition to have it in place. There is no policy that states that each department should have a safety committee. But it's essential that we have one at the mail center because of the freight that comes through it. It's essential that we have something in place that says that we've got to learn how to handle viruses, bio-hazards and the chicken flu. We need something to protect us.

**Jonathan:**
So it's entirely discretionary

**Sonia**
Yes.

**Ashwini:**
Thank you.

**Willette Chapman**
**Employee of the University of North Carolina at Greensboro**
Good evening everyone. My name is Willette Chapman and I'm a member of UE 150 and an employee of UNC Greensboro. I've been there for three years. I've got five children and have recently adopted my grandchild. And I'm here to talk about unfairness in management. Management at the university has shown that workers' families are not important. Prior to me adopting my grandchild she had received injuries to her head and she had a shell implanted in her skull so that fluid would not reach her brain. Her condition caused her to have high temperature and fatigue. Due to her injuries I was out of

work for two and a half months last year in 2004, and at least four times or more this year due to her ongoing appointments. This has caused me and my family a lot of stress. I have lost thousands of dollars due to management not following proper procedures.

[break in the testimony]

One of my other co-workers, he had worked at UNC-G for 22 years. He had been fired because he needed to take care of his wife. He has been harassed about his situation. If we as workers in the union could collectively bargain and have a contract we could have fair policies and there would be consequences for them not following it. We would have the power to say things are unfair.

**Lawrence Harris**
**Housekeeper, North Carolina Agricultural and Technical (A&T) State University, Greensboro**
My name is Lawrence Harris and I'm employed by North Carolina State University as a house keeper. And the problems that concern me are the parking problems at the A&T. When you come in the morning, and if you park, you've got to stay there all day and you can't leave, even if you have an emergency or you go to lunch. If you leave there's a 90-95% chance that the space may have been taken, and you might have to park at a parking lot 40 minutes away. That includes when it rains or snows.

The average housekeeper earns about $23000... I cannot afford to pay that kind of money, $50 a month for a permit to park. If you don't have a permit to park this means that you can get ticketed, you can get towed. Once you get towed you got to pay the towing bill and also the fine. And the prices are prohibitive for people making less than $30,000 a year and prices should be designated according to income. People shouldn't have to pay for parking on campus especially those who don't make a lot of money. You've got professors making a $100,000 and they can afford to pay to park in a reserved space.

**Jonathan**
Has there been some discussion about this with the administration?

**Lawrence**
Its been discussed so many times but you've got people on campus afraid to speak up about the issues that are going on.

**Jonathan**
So it remains at an informal level and doesn't get to a point where you can put pressure

**Lawrence**
The thing is, you talk to these people about the things that are going on and they don't care. They talk all this talk, but won't walk the walk

**Jonathan**
Do you know if there has ever been a separate category for parking for certain employees. I don't know how long you've been there, but I know this is an issue at other schools as well.

**Lawrence**
I've been there for 23 years.

**Minnie Thompson**
**Bus driver, Mecklenburg County School System**
Good evening. My name is Minnie Thompson and I'm a Charlotte Mecklenburg school bus driver. I've been employed with the county school for seven years and I'm a member of Teamsters Local 71. I want to talk to you about the use of the bathroom, a problem we had beginning in 2003.

A bus driver's day begins at 4:30 AM and doesn't stop, according to the schedule, for hours or more. Sometime in 2003, upon arriving at the lot at 9:30, the drivers were told that the restroom was broke, and that the nearest restroom was 3-4 blocks away. It was leaked out that the restroom doors was locked to keep the drivers out. The drivers asked the supervisors if this was true, and are we expected to use a nasty filthy porta-john.[5] The drivers are 85% African-American females who need a clean, sanitized restroom for personal hygiene. The next day we received a signed memo from the supervisor stating that we couldn't use the restroom and he posted it in his office to remind us at all times. It was humiliating. It was inhuman to be treated like that and my dignity was crushed. With all that I had left in me, I started a petition stating that we had the right to use the restroom. The other drivers, they all hurt but were afraid to sign for fear of losing their jobs. Seventy out of eighty drivers decided to stand up. The super refused to receive the petition. About 20 of us marched to the administrator's office with the petition. Instead of correcting the problem I was told that I would be transferred. My transfer took place in about two hours and they also faxed a copy of the letter and the memo to the super. The policy has never been changed.

In other areas, drivers are told that their pay will be deducted if they start to use the restroom. I know that if we had the right to collective bargaining, we would have access to a sanitized and clean restroom and could negotiate with regard to human rights on the local and state government level. And as of today we are using a restroom, but it's never been told to us that we have the right to use the restroom. Its never been told to us. And I feel that my work place should be a clean and sanitized environment, so that I can have a positive attitude to meet the children in the morning and without these things...Without collective bargaining as our voice, they continue to take away our rights.

**Ashwini:**
Thank you for sharing your story... are there any questions?

**Bama:**
I assume your supervisor is male. Is that right?

**Minnie**
Yes he is

**Bama:**
Black or white?

**Minnie**
Black.

**Bama:**
And I also understood that this bathroom story isn't the first thing that's happened to make you feel like you weren't being respected. I get the feeling that this is part of a pattern. Is that true?

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5 Portable toilet

**Minnie**
We are very much looked down upon from the teachers and the supervisors in the office.

**Ashwini:**
Thank you

**Cedric Williams**
**Employee of the City of Charlotte, Sanitations Department**

Good evening. My name is Cedric Williams, and I work with the City of Charlotte and I've been employed there for the past year and two months. I'm a driver in the sanitation department. My day starts at 6 in the morning, until... until means until everything is done. We may come in at 6 and not even leave till 9 at night. With no regards for our family and no respect for us, they tell us, "You can't go home. You can't leave." Just to fulfil their need. Something that could easily be picked up the next day. You have tickets that come down from the mayor's office: Go and get that heap. So we have to break off our route, go pick up the ticket, call it back in, go back to our route and are expected to finish our route. If we can't finish our route then we can call in for help. But then what that does is that puts a strain on the next man that has to come in and help you. They put this into effect years back, and its probably one of the worst that they've done. Day in and out we're told, "If you can't get your route over, then maybe you don't need to work here." We come in and I may pick up four tons. When I say pick up – I'm in the recycling department, and four tons is picked up manually by me. Not by machine, not anyone else, but by me. This is four to five tons and I have picked up seven tons in one day. This is work for a machine, for a robot, I don't have any robot arms. Right now I think I'm about to shut down with the way my body works, I'm tired. I took off a day regardless of what they said, to tell you guys what's actually going on. The pay is atrocious. For the work is slavery. I might as well be getting paid 70 cents a day like the prisoners do. There's so many more things that I have in my mind, but I'm only here to talk about this particular incident. Believe me when I say that I need an honest day's pay for an honest day's work. When we have collective bargaining rights, these things won't be happening.

Just today I went marching into the office. At this point I'm at a point it doesn't matter whatever they say, but I have to know that I need someone backing me up all the time. Me and my fellow worker went marching in today because of an incident that happened. But because we took the time to have other people around while the incident was happening, we were only reprimanded. Everything was neutralized. They didn't think we looked so small. So I say to anyone here, if you have any problem on the job make sure you have it written down. Make sure it's signed, dated, any kind of problem. Because we shouldn't have to go through unfair treatment, unfair work days. It's cold, it's hot, it's 110 degrees outside they never stopped us from working. And if you take a break for too long in a 100 degree weather, well, you get a write up. Soon it's going to be 10 degrees outside. They're not going to tell us to stay home. They're going to tell us to work, just like slaves.

**Thomas Young**
**Employee of the City of Charlotte, Sanitations Department**
I'm part of UE 150 and I'm here to speak for my colleagues in the North Carolina sanitation department. We started off at $5.50 an hour. Then when I came over to the city they told me that they were going to give me $9 then they pushed me back to $7. Was making $9, but pushed me to $7. I went to the supervisor and management, and I talked to everyone. They said that if I didn't like it, quit. Now they told us that they want to give us insurance that should've been done a long time ago. We're all here for a reason. All eyes is on North Carolina. We need collective bargaining, if we got collective

bargaining then all this stuff wouldn't happen. I have a friend who got run over by a truck. It was backing up and it drove over him. Bad working conditions. People don't want to talk to people. Disrespectful. Just the day… I don't want to take up too much time.

**Cedric**
This Monday past was Halloween and I was on the street in another division. A lady said, "You need to be hurry up off the street so our kids can go trick or treating." This is a white neighbourhood where there are million dollar homes around a golf course. I called and told a supervisor and he said we'd be off the street in about an hour. What kind of respect is this even from the community.

**Rudi:**
Coming back to the hours, what are the fixed hours you're required to work?

**Cedric**
There are no fixed hours. From 6 until everything is finished.

**Rudi:**
But how many hours a week on average do you work?

**Cedric**
Maybe 60 hours a week

**Rudi:**
Were you compensated for those hours?

**Cedric**
We were compensated for overtime. That's about it. I think we should be compensated for going to help other people considering that you've got that thing everyday. Who knows who's going to have to get some help, so they're going to slow down, but they still need to take that into consideration.

**Jonathan**
I want to make sure I understood. You mentioned that the mayor's office had tickets that were special items that you had to interrupt regular hours of work. Are mayor's office tickets special projects that when there's a special type of urgency will get a mayor's ticket to have or are there instances in which you're wondering why it is you're at that place taking that particular thing.

**Cedric**
Friends of mayor, or the friends of the friends of the friends of the mayor…

**Jonathan**
That's what I thought.. just wanted to be sure

**Ashwini:**
Thank you. One last person who's going to be speaking. Penny Meredith

**Penny Meredith**
**Employee of the City of Charlotte, Special Services Division**

Good evening everyone, my name is Penny Meredith and I'm with the City of Charlotte special

services division and I've worked with them for the last 10 years. In the last 10 years that I've been there the discrimination and harassment facing the female employees is ridiculous. And at current, I'm one of three females that work at my department. I'm a white female. One black female who's been there for five years and one Latina for nine months. Two months ago we lost two black females. Why? Due to the harassment. They couldn't take it so they left.

Tabitha couldn't be here because she's injured. She'd hurt her leg. Two weeks ago she told them about it. They acted like she just pulled a muscle and told her to get back to work. So she continued her day and finally she went to the doctor and she got put on light duty. Anyone that works for any city, knows that there's no such thing as light duty. So she goes back to work and she was limping for two weeks and last weekend she had to call her husband off the road. She has an 11-year-old son. And one of the guys at work called to see how she was doing and she couldn't move on her couch. They took her to the emergency room because there was a bone in her leg that had been out of place this entire time. That's why she isn't here today. But I am.

Ten years ago when I was part of this city, I didn't know they did us wrong until we had a male employee who talked with such vulgarity that I can't repeat it at this time. Then when him and I were working alone, on a weekend all I did was ask him why he went the wrong way, he grabbed me by my collar slammed me back against the seat and called me a bitch, and then he proceeded to say that if I told anyone, that he'd pop a cap in my ass. I didn't say a word for two years. Who'd believe me? But he needed to protect himself so he went to my immediate supervisor and told him that I was going to turn him in for sexual harassment. My supervisor didn't say a word to me.
It all came out at the time when the other white female who was working there, he started harassing her. She took it to the higher-ups. They asked, what did he do. She told them what they did to me. And I told them. I told them that he also threatened to take my life. And they still made us work for him. They did not terminate him. They only terminated him, do you know when? When he missed work because he was arrested on charges of domestic violence, and couldn't call in to tell them he was in jail.

This goes on today. I've applied for supervisor jobs two, three times now. Each time I wasn't qualified. According to them. The last time when I was told that I didn't get the position, the supervisor told me, laying back on his arms, this is a male-dominated environment. And he thought that I was going to accept this as this response? I had five year's seniority over the guy they gave the job to. I had a high school diploma with college credits. He came with a GED[6] and he came from community services which meant that he had a prior criminal record. And they put him in a position over me. The only thing he had over me, was that he had a better attendance record. And I got chastized because I was a single parent. I have children and illnesses in my family. I filed a grievance and they sent back a letter saying, "Oh, he didn't mean it in a bad way." Then I took it to the next level. The mediator, a white lady, is from human resources. Who pays that employee from human resources? They offer "mentoring." If that's the type of mentoring you're offering me...! When you tell me that this is a male-dominated environment, you tell me that there isn't any place for me. There was an employee base of eight, maximum. They make sure to push women out. They tried pushing me out, they keep coming but I'm not going to let them. I'm going to fight them as long as I can. What we need is collective bargaining to do that, to give us rights. As it stands now we have none.

Incident last week. We were in a general meeting. I'm in there, guys are in there passing around chips.

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6 General Education Development (equivalent of a high school diploma, earned in adulthood)

Supervisor asks them if they going to give me one. They say no, Penny needs Slimfast.[7] This is last week. I've been dealing with this type of talk. This type of ignorance towards the female employee base for 10 years. And there's no one to go to. Because if you look at it from the top – super white male, his two assistants – white males – then three white males, then four white males... do you see the big picture there? Without collective bargaining we have no rights. Give us rights. The city of Charlotte is one of the biggest in North Carolina, and is one of the fastest going cities across this state. They brag about coming into the 21st century – but with a 1950s attitude.

7 Diet product

**Appendix C**

**Comment by Kevin Kolben, observer at the public hearing**

North Carolina's Ban on Collective Bargaining:
Bad for Workers, Bad for Business

Kevin Kolben
Rutgers Business School

Dr. Martin Luther King was assassinated on April 4th 1968 the day after delivering a speech in support of striking black sanitation workers in Memphis, Tennessee. When two workers were crushed in their trucks while seeking shelter from the rain, 1300 workers decided enough was enough and went out on strike to exercise their basic rights to organize a union and bargain collectively. But Memphis's Mayor, Henry Loeb, steadfastly and paternalistically refused to recognize the union and negotiate a contract. Dr. King's last act was to fight for the right of public sector workers to form a union, and to remind us that workers rights are basic human rights. Unfortunately, 28 years later, some states still haven't gotten the message. North Carolina is among a small handful of states that actively bans collective bargaining by its state employees.

This month, the International Commission for Labor Rights (ICLR), a non-profit organization composed of international labor law experts from around the world, at the request of the North Carolina Public Employees Unions, conducted a hearing of North Carolina state workers in Raleigh to determine whether or not North Carolina's ban on collective bargaining violates international labor law and human rights standards. I was invited as an independent observer to witness testimony that was, to say the least, disturbing.

These examples of egregious human rights violations illustrate the need for collective bargaining rights in North Carolina's public sector. The rights to freedom of association and collective bargaining are not luxuries to be granted at the charitable whim of employers, but rather basic human rights guaranteed under international law. A range of human rights instruments, such as the Universal Declaration of Human Rights, specifically includes freedom of association and collective bargaining to be fundamental human rights. The International Labor Organization (ILO), the United Nations body responsible for labor issues, has determined in a case before its Committee on Freedom of Association that North Carolina's law violates its state employees' right to bargain collectively.

Members of the ICLR panel, which included lawyers and experts from Nigeria, South Africa, Canada, and Sweden, heard over 15 workers testify about violations of their human rights. One state worker, a school bus driver, was reduced to tears when she described how her supervisor denies her and her mostly female co-workers use of the bathroom during their 5 hour early morning shifts. When she led a petition drive to get the right to use the restroom, she was told that she would be transferred. Other state workers described being sexually harassed, forced to work double shifts in psychiatric institutions with only a few minutes notice, and being forced to engage in heavy labor in 110 degree hear without respite. And in an incident reminiscent of days thought long past, when workers in the City of Rocky Mount began a drive to organize with the North Carolina Public Service Workers Union, a dummy was publicly hung up in a hangman's noose, allegedly in an effort to intimidate and dissuade the employees from exercising their basic human rights.

Most states in the U.S. explicitly permit collective bargaining, either whole or in part, between the state and its workers. The reasons for this are at least in part because collective bargaining is good for business. First, workers who feel they have a voice on the job will be more productive. When employees are made subject to the abuses that they testified to in Raleigh, there is little motivation for

them to have pride in their work perform at their best. Second, collaborative instead of hostile relationships between public sector management and employees can lead to beneficial outcomes. Cooperation vs. conflict leads to joint learning and improved service. This basic point has been documented in studies such as one authored by former New Jersey Governor Jim Florio and published in 1996 by the Department of Labor entitled, "Working Together for Public Service".

Dr. King knew that social and racial justice requires respect of workers' human rights. Fortunately, good human rights practice is good management practice: when workers are given a voice, they can help be part of the solution in making the public sector work effectively. It is time for North Carolina and other states that restrict bargaining rights to do the right thing for its citizens, and to do the smart thing for the quality public services.

## Appendix D

## Sources and principles of application of international law

Article 38(I) of the Statute of the International Court of Justice provides a generally accepted statement of sources of international law, stating that disputes shall be decided through the application of:
(a) international conventions, whether general or particular, establishing rules expressly recognized by the contesting states;
(b) international custom, as evidence of a general practice accepted as law;
(c) the general principles of law recognized by civilized nations;
(d) subject to the provisions of Article 59, judicial decisions and the teachings of the most highly qualified publicists of the various nations, as subsidiary means for the determination of rules of law.

With respect to (a), the definition in the Vienna Convention on the Law of Treaties (1969) provides the relevant definition. Article 2 of the Convention states:
"'treaty' means an international agreement concluded between States in written form and governed by international law [...]"
The definition covers a wide variety of written instruments, including covenants and conventions, but excluding declarations and resolutions (though these, as noted below, serve as a source in terms of making determinations about customary international law)

With respect to (b) – international custom – it should be noted that, under Article 38 of the Vienna Convention, the provisions of a treaty may become binding even on states that do not ratify that treaty, if the provisions are generally accepted norms of state conduct.

International custom does not trump a treaty obligation unless it is what is known as a "peremptory norm" (jus cogens), which takes precedence over all other sources of international law. As defined by Article 53 of the Vienna Convention, a peremptory norm of general international law is "a norm accepted and recognized by the international community of States as a whole as a norm from which no derogation is permitted and which can be modified only by a subsequent norm of general international law having the same character." A commonly cited example of a peremptory norm would be the prohibition against slavery.

In order to determine whether a given norm is considered to be customary international law, it must pass a two-step test:
State Practice: Is the *actual behavior* of states consistent with the existence of the rule?
Opinio Juris: Is there evidence that states *believe* that the rule in question is law?
Widespread, consistent compliance by states, based on a consensus that this is legally required, turns a practice into custom, and thus into a rule of international law.

Sources of custom that may be converted into legally binding rules of international law include state practice established through:
- UN General Assembly resolutions and declarations
- ILO resolutions and declarations
- "Soft Law" sources, such as recommendations, guidelines, codes of practice or standards

With respect to (c), it should be noted that general principles of law apply to "fill in the gaps" in identifiable existing law. For example, to quote the Permanent Court of International Justice in the

*Chorzów Factory* case, "it is a principle of international law, and even a general conception of law, that any breach of an engagement involves an obligation to make reparation" – that is to say, that every right must have a remedy.

Another important principle is that there is no distinction between the binding effect of treaties involving human rights (including labor rights), which lay out a state's obligations to individuals, and those treaties addressing the obligations of states to each other, such as trade agreements.

Finally, with respect to (d), this category would include both the opinions of international courts –
- the Permanent Court of International Justice
- the International Court of Justice
- the International Criminal Tribunals
- the European Court of Human Rights
- the Inter-American Court of Human Rights

as well as domestic courts applying and interpreting international law.

The decisions of quasi-judicial bodies such as the ILO's Committee on Freedom of Association would also be considered a judicial opinion; however, the reports of the ILO's Committee of Experts on the Application of Conventions and Recommendations would be a source of "soft law" (see above).

Appendix E

# Data with respect to employment in the North Carolina public sector

compiled by UE Local 150

# Orientation

## Introducing North Carolina

The State of North Carolina government workforce consists of 91,092 SPA (Subject to State Personnel Act) employees as of September 30, 2005. This total includes permanent full-time, part-time, and temporary employees.

State agencies comprise 76.2% (69,405 employees) of this total. University employees comprise 23.8% (21,687 employees).

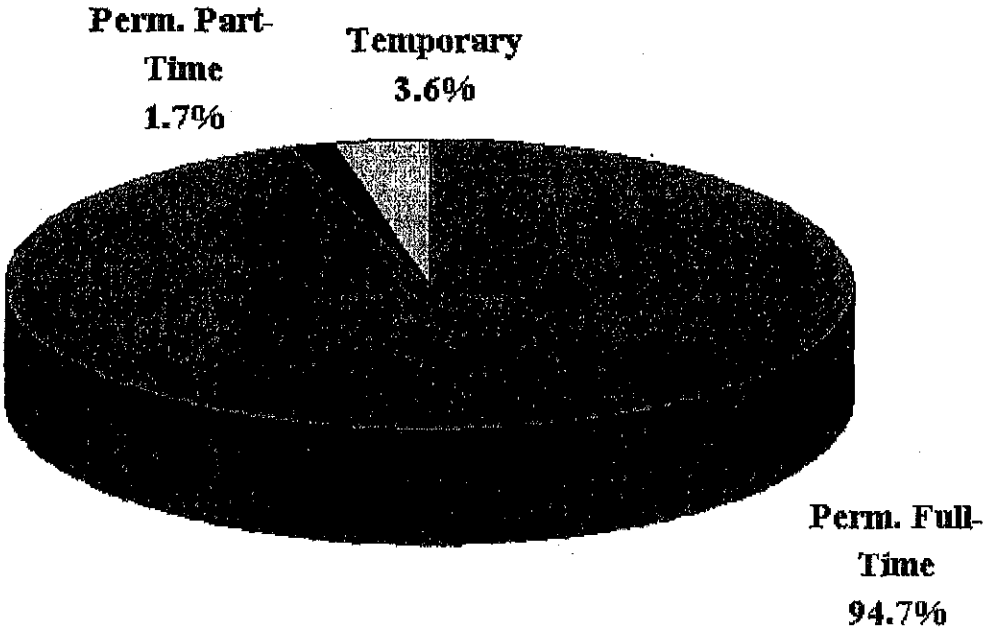
For the 86,227 permanent full-time State employees, which include permanent, probationary, trainee, time-limited employees, the following statistics apply:

Average Anual Salary = $35,972
Average Age = 43.9
Average Employee Service = 126.0 months (10 yrs 6.0 mos)

# State Employees Appointment Type

**(Including Only SPA Employees)**

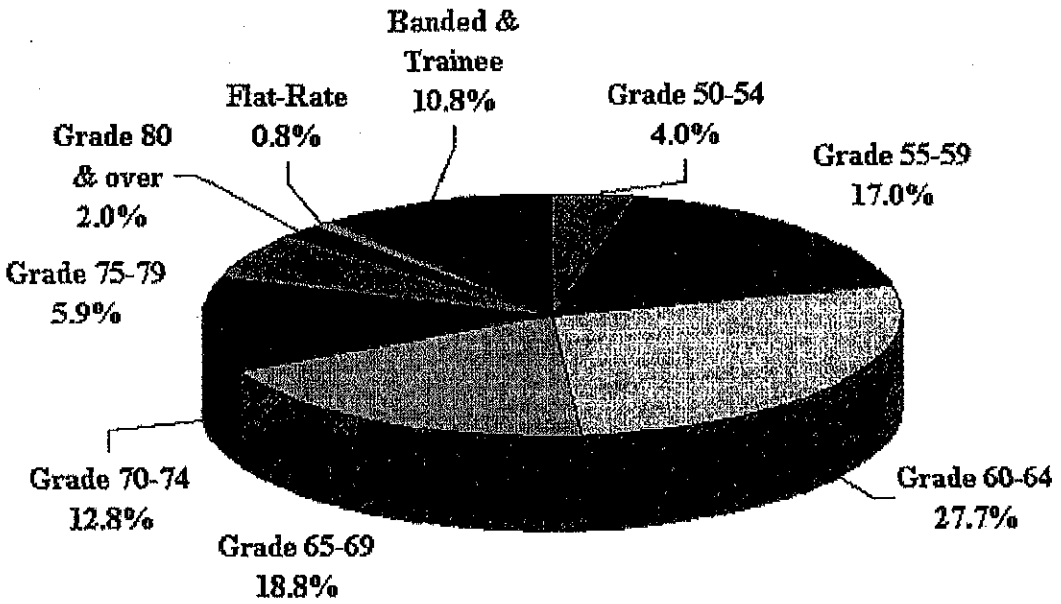
| Appointment Type | # Employees | Percent |
|---|---|---|
| Perm. Full-Time | 86,227 | 94.7% |
| Perm. Part-Time | 1,591 | 1.7% |
| Temporary | 3,274 | 3.6% |
| **Total** | **91,092** | **100.0%** |



# State Employees by Pay Grade

**(Including Only Permanent Full-Time SPA Employees)**

| Pay Grade | # Employees | Percent |
|---|---|---|
| Grade 50-54 | 3,471 | 4.0% |
| Grade 55-59 | 14,618 | 17.0% |
| Grade 60-64 | 23,927 | 27.7% |
| Grade 65-69 | 16,227 | 18.8% |
| Grade 70-74 | 11,075 | 12.8% |
| Grade 75-79 | 5,127 | 5.9% |
| Grade 80 & over | 1,767 | 2.0% |
| Flat-Rate | 701 | 0.8% |
| Banded & Trainee | 9,314 | 10.8% |
| **Total** | **86,227** | **100.0%** |



| STATE OF NORTH CAROLINA<br>JULY 1, 2005 MONTHLY SALARIES - (LI of $850 or 2%) | | | |
|---|---|---|---|
| **Grade** | **Minimum** | **Midpoint** | **Maximum** |
| 50 | 1,676.00 | 1,815.58 | 1,955.08 |
| 51 | 1,676.00 | 1,851.08 | 2,026.17 |
| 52 | 1,676.00 | 1,888.58 | 2,101.08 |
| 53 | 1,676.00 | 1,926.00 | 2,176.00 |
| 54 | 1,676.00 | 1,966.42 | 2,256.75 |
| 55 | 1,676.00 | 2,006.33 | 2,336.58 |
| 56 | 1,689.00 | 2,058.17 | 2,427.33 |
| 57 | 1,746.25 | 2,134.67 | 2,523.00 |
| 58 | 1,804.67 | 2,212.92 | 2,621.08 |
| 59 | 1,868.83 | 2,296.50 | 2,724.08 |
| 60 | 1,935.58 | 2,385.75 | 2,835.83 |
| 61 | 2,008.42 | 2,479.75 | 2,951.00 |
| 62 | 2,079.83 | 2,573.75 | 3,067.67 |
| 63 | 2,157.17 | 2,674.33 | 3,191.42 |
| 64 | 2,235.83 | 2,780.50 | 3,325.17 |
| 65 | 2,318.17 | 2,894.08 | 3,469.92 |
| 66 | 2,407.33 | 3,014.50 | 3,621.67 |
| 67 | 2,503.75 | 3,146.17 | 3,788.50 |
| 68 | 2,600.33 | 3,282.92 | 3,965.50 |
| 69 | 2,702.67 | 3,424.50 | 4,146.25 |
| 70 | 2,815.83 | 3,577.33 | 4,338.75 |
| 71 | 2,927.83 | 3,731.83 | 4,535.83 |
| 72 | 3,043.42 | 3,893.00 | 4,742.58 |
| 73 | 3,166.17 | 4,064.67 | 4,963.08 |
| 74 | 3,301.92 | 4,249.83 | 5,197.67 |
| 75 | 3,447.17 | 4,443.67 | 5,440.17 |
| 76 | 3,596.42 | 4,645.92 | 5,695.33 |
| 77 | 3,765.42 | 4,863.75 | 5,962.08 |
| 78 | 3,936.00 | 5,090.75 | 6,245.42 |
| 79 | 4,119.00 | 5,330.33 | 6,541.58 |
| 80 | 4,307.17 | 5,577.75 | 6,848.25 |
| 81 | 4,506.33 | 5,838.83 | 7,171.25 |
| 82 | 4,708.25 | 6,112.92 | 7,517.58 |
| 83 | 4,932.33 | 6,408.33 | 7,884.33 |
| 84 | 5,163.92 | 6,714.58 | 8,265.17 |
| 85 | 5,405.50 | 7,034.08 | 8,662.67 |
| 86 | 5,657.08 | 7,369.67 | 9,082.17 |
| 87 | 5,923.67 | 7,723.42 | 9,523.17 |
| 88 | 6,208.92 | 8,095.58 | 9,982.25 |
| 89 | 6,499.17 | 8,481.75 | 10,464.25 |
| 90 | 6,805.33 | 8,890.08 | 10,974.75 |
| 91 | 7,128.00 | 9,320.75 | 11,513.42 |
| 92 | 7,476.67 | 9,776.58 | 12,076.42 |
| 93 | 7,838.83 | 10,254.50 | 12,670.08 |
| 94 | 8,215.00 | 10,752.83 | 13,290.67 |
| 95 | 8,612.25 | 11,279.17 | 13,946.00 |
| 96 | 9,029.58 | 11,831.50 | 14,633.33 |

## APPENDIX "D"

| STATE OF NORTH CAROLINA<br>PHYSICIAN SALARY SCHEDULE<br>July 1, 2005 (LI $850 or 2%) | | | |
|---|---|---|---|
| **Grade** | **Minimum** | **Midpoint** | **Maximum** |
| 1 | $66,741 | $88,587 | $110,432 |
| 2 | $70,015 | $92,952 | $115,889 |
| 3 | $73,451 | $97,536 | $121,620 |
| 4 | $77,061 | $102,349 | $127,636 |
| 5 | $80,848 | $107,401 | $133,953 |
| 6 | $84,826 | $112,706 | $140,585 |
| 7 | $89,005 | $118,277 | $147,549 |
| 8 | $93,391 | $124,127 | $154,862 |
| 9 | $97,997 | $130,269 | $162,541 |
| 10 | $102,832 | $136,717 | $170,601 |
| 11 | $107,911 | $143,490 | $179,068 |
| 12 | $113,242 | $150,599 | $187,955 |
| 13 | $118,841 | $158,065 | $197,288 |
| 14 | $124,718 | $165,904 | $207,089 |
| 15 | $130,889 | $174,133 | $217,377 |

| Sch. Code | | Grade |
|---|---|---|
| 4905 | Physician II | 5 |
| 4906 | Physician III - A | 9 |
| 4907 | Physician III - B | 11 |
| 4908 | Physician III - C | 12 |
| 4925 | Physician IV - A | 10 |
| 4926 | Physician IV - B | 12 |
| 4927 | Physician IV - C | 13 |
| 4935 | Public Health Physician I | 2 |
| 4936 | Public Health Physician II | 5 |
| 4937 | Public Health Physician III | 9 |
| 4938 | Public Health Physician IV | 10 |
| 4939 | Physician Director I | 8 |
| 4942 | Physician Director II - A | 10 |
| 4943 | Physician Director II - B | 12 |
| 4944 | Physician Director II - C | 13 |
| 4945 | Physician Director III - A | 12 |
| 4946 | Physician Director III - B | 14 |
| 4947 | Physician Director III - C | 15 |
| 4948 | Physician Director IV - A | 12 |
| 4949 | Physician Director IV - B | 14 |
| 4950 | Physician Director IV - C | 15 |
| 4954 | Forensic Pathologist I | 2 |
| 4956 | Forensic Pathologist II | 9 |
| 4958 | Associate Chief Medical Examiner | 12 |
| 4959 | Chief Medical Examiner | 15 |
| 4960 | Assistant Secretary Health/State Health Director | 14 |

A = Pediatrics, Family, and Internal Medicine
B = General Psychiatry, Neurology, Radiology, General Surgery, and OB/Gyn
C = Child Psychiatry, Anesthesiology, Forensic Psychiatry

# *Legislative Increases - July 1971 through July 2004*

| Year | ATB Increases | Additional Compensation - Career Growth | Performance Increases / Bonus / Comments |
|---|---|---|---|
| 1971 | 5.0% | | Standard merit funds per State Personnel Act-(2/3 money available) |
| 1972 | 5.0% | | Same as previous year |
| 1973 | 5.0% | (+ add'l 5% for low paid employees) | Same as previous year |
| 1974 | 7.5% | | Same as previous year |
| 1975 | 0.0% | | Same as previous year |
| 1976 | 6.5% | avg (4% + $300) | Same as previous year |
| 1977 | 6.5% | | Same as previous year |
| 1978 | 6.0% | | Same as previous year |
| 1979 | 5.0% | (+ $200 Lump Sum) | Same as previous year |
| 1980 | 10.0% | | Same as previous year |
| 1981 | 0.0% | | Same as previous year |
| 1982 | 5.0% | Inc granted Jan, 1983; no LI in July | Merits Frozen |
| 1983 | 5.0% | | No Merits |
| 1984 | 10.0% | | No Merits |
| 1985 | 5.0% | One step (approx. 5%) inc to ee w/1 yr. con svc. | |
| 1986 | $900 (avg 4.5%) | | 1.2% payroll for merits-limited to 2, 1/4 steps |
| 1987 | 5.0% | | No Merits |
| 1988 | 4.5% | | No Merits |
| 1989 | 4.0% | | 2% of payroll for merits |
| 1990 | 4.0% | | 2% of payroll for merits |
| 1991 | 0% | | No Merits |
| 1992 | $522 (avg 2.0%) | | No Merits |
| 1993 | 2.0% | 1% one-time bonus | No Merits |
| 1994 | 1% @ HR;<br>4% @ Max;<br>4% for EE's | 1% one-time bonus | No Merits |
| 1995 | 2% | | No Merits |
| 1996 | 2.5% | 2% Career Growth - Effective 9/1/96 | No Merits |
| 1997 | 2% | 2% Career Growth | No Merits |
| 1998 | 1% | 2% Career Growth | 1% Perf Bonus |
| 1999 | 1 % | 2% Career Growth | $125 Bonus |
| 2000 | 2.2% | 2% Career Growth | $500 Bonus if on payroll 10/1/00 |
| 2001 | $625 (avg 1.9%) | 0% Career Growth | No Merits |
| 2002 | 0% | 0% Career Growth | No Merits; 10 days bonus vacation leave |
| 2003 | 0% | 0% Career Growth | No Merits; 10 days bonus vacation leave |
| 2004 | $1,000 or 2.5% | 0% Career Growth | No Merits |
| 2005 | | | |

# State Employees by Occupation

**(Including Only Permanent Full-Time SPA Employees)**

| Occupation | # Employees | Percent |
|---|---|---|
| Clerical & Office Services | 14,243 | 16.5% |
| Acct., Audit, & Finan. Mangt. | 2,493 | 2.9% |
| Legal, Adminst.,Mangt. | 4,853 | 5.6% |
| Data Processing | 4,308 | 5.0% |
| Information & Education | 2,983 | 3.5% |
| Human Services | 3,727 | 4.3% |
| Med.,Health, & Laboratory | 6,504 | 7.5% |
| Licens., Inspect., Pub Safety | 16,918 | 19.6% |
| Institut. Services | 4,023 | 4.7% |
| Skilled Trades | 8,952 | 10.4% |
| Engineer, Architctural, etc. | 5,923 | 6.9% |
| Agric & Conservation | 1,828 | 2.1% |
| Flat-Rate | 701 | 0.8% |
| T-Grade | 8,771 | 10.2% |
| **Total** | 86,227 | 100.0% |

# State Employees by Agency/Department

**(Including Only Permanent Full-Time SPA Employees)**

| Agency | # Employees | Percent |
|---|---|---|
| Administration | 754 | 0.9% |
| Administrative Hearings | 37 | 0.0% |
| Agriculture | 1,210 | 1.4% |
| Board of Election | 31 | 0.0% |
| Commerce | 653 | 0.8% |
| Community Colleges | 159 | 0.2% |
| Correction | 18,233 | 21.1% |
| Crime Control & Public Safety | 2,625 | 3.0% |
| Cultural Resources | 659 | 0.8% |
| Employment Security Comm. | 1,531 | 1.8% |
| Environment & Nat. Resources | 3,443 | 4.0% |
| Governor's Office | 55 | 0.1% |
| Health & Human Services | 16,407 | 19.0% |
| Information Technology Serv. | 407 | 0.5% |
| Insurance | 380 | 0.4% |
| Justice | 1,173 | 1.4% |
| Juvenile Justice | 1,647 | 1.9% |
| Labor | 394 | 0.5% |
| License Boards, etc. | 36 | 0.0% |
| Lt. Governor's Office | 6 | 0.0% |
| Major Medical Plan | 15 | 0.6% |
| Public Instruction | 485 | 0.6% |
| Revenue | 1,292 | 1.5% |
| Secretary of State | 157 | 0.2% |
| State Auditor | 172 | 0.2% |
| State Controller | 84 | 0.1% |
| State Personnel | 90 | 0.1% |
| State Treasurer | 291 | 0.3% |
| Transportation | 12,637 | 14.7% |
| Wildlife Resources | 576 | 0.7% |
| **State Agencies Total** | 65,639 | 76.1% |

# State Employees by University/School

**(Including Only Permanent Full-Time SPA Employees)**

| University | # Employees | Percent |
|---|---|---|
| Appalachian State | 1,142 | 1.3% |
| East Carolina | 2,628 | 3.0% |
| Elizabeth City State | 278 | 0.3% |
| Fayetteville State | 358 | 0.4% |
| NC A & T | 747 | 0.9% |
| NC Central | 460 | 0.5% |
| NC Sch. of Science & Math. | 102 | 0.1% |
| NC School of Arts | 191 | 0.2% |
| NC State | 3,546 | 4.1% |
| UNC-Asheville | 332 | 0.4% |
| UNC-Chapel Hill | 6,148 | 7.1% |
| UNC-Charlotte | 1,172 | 1.4% |
| UNC-Gen. Administration | 308 | 0.4% |
| UNC-Greensboro | 1,034 | 1.2% |
| UNC-Pembroke | 343 | 0.4% |
| UNC-Wilmington | 803 | 0.9% |
| West Carolina | 669 | 0.8% |
| Winston-Salem State | 327 | 0.4% |
| **University System** | 20,588 | 23.9% |

# State Employees by County

**(Including Only Permanent Full-Time SPA Employees)**

| County | # Employees | Percent |
|---|---|---|
| ALAMANCE | 209 | 0.2% |
| ALEXANDER | 487 | 0.6% |
| ALLEGHANY | 52 | 0.1% |
| ANSON | 823 | 1.0% |
| ASHE | 109 | 0.1% |
| AVERY | 603 | 0.7% |
| BEAUFORT | 320 | 0.4% |
| BERTIE | 69 | 0.1% |
| BLADEN | 200 | 0.2% |
| BRUNSWICK | 193 | 0.2% |
| BUNCOMBE | 2,319 | 0.2% |
| BURKE | 3,194 | 2.7% |
| CABARRUS | 394 | 3.7% |
| CALDWELL | 244 | 0.5% |
| CAMDEN | 30 | 0.3% |
| CARTERET | 464 | 0.0% |
| CASWELL | 387 | 0.5% |
| CATAWBA | 429 | 0.4% |
| CHATHAM | 161 | 0.5% |
| CHEROKEE | 121 | 0.2% |
| CHOWAN | 77 | 0.1% |
| CLAY | 31 | 0.0% |
| CLEVELAND | 483 | 0.6% |
| COLUMBUS | 462 | 0.5% |

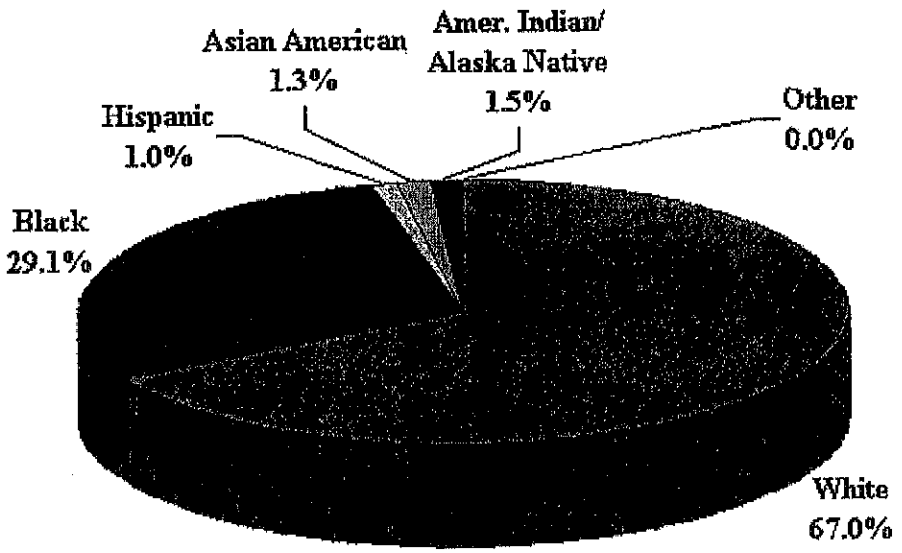
| County | # Employees | Percent |
|---|---|---|
| JONES | 41 | 0.0% |
| LEE | 163 | 0.2% |
| LENOIR | 1,928 | 2.2% |
| LINCOLN | 161 | 0.2% |
| MACON | 84 | 0.1% |
| MADISON | 82 | 0.1% |
| MARTIN | 234 | 0.3% |
| MCDOWELL | 519 | 0.6% |
| MECKLENBURG | 2,199 | 2.6% |
| MITCHELL | 61 | 0.1% |
| MONTGOMERY | 372 | 0.4% |
| MOORE | 444 | 0.5% |
| NASH | 490 | 0.6% |
| NEW HANOVER | 1,606 | 1.9% |
| NORTHAMPTON | 343 | 0.4% |
| ONSLOW | 249 | 0.3% |
| ORANGE | 6,497 | 7.5% |
| PAMLICO | 215 | 0.2% |
| PASQUOTANK | 815 | 0.9% |
| PENDER | 456 | 0.5% |
| PERQUIMANS | 63 | 0.1% |
| PERSON | 92 | 0.1% |
| PITT | 3,368 | 3.9% |
| POLK | 40 | 0.0% |

| | | |
|---|---|---|
| CRAVEN | 713 | 0.8% |
| CUMBERLAND | 1,278 | 1.5% |
| CURRITUCK | 60 | 0.1% |
| DARE | 312 | 0.4% |
| DAVIDSON | 315 | 0.4% |
| DAVIE | 60 | 0.1% |
| DUPLIN | 251 | 0.3% |
| DURHAM | 1,254 | 1.5% |
| EDGECOMBE | 394 | 0.5% |
| FORSYTH | 1,405 | 1.6% |
| FRANKLIN | 296 | 0.3% |
| GASTON | 301 | 0.3% |
| GATES | 66 | 0.1% |
| GRAHAM | 29 | 0.0% |
| GRANVILLE | 3,584 | 4.2% |
| GREENE | 573 | 0.7% |
| GUILFORD | 2,715 | 3.1% |
| HALIFAX | 679 | 0.8% |
| HARNETT | 546 | 0.6% |
| HAYWOOD | 189 | 0.2% |
| HENDERSON | 220 | 0.3% |
| HERTFORD | 265 | 0.3% |
| HOKE | 529 | 0.6% |
| HYDE | 276 | 0.3% |
| IREDELL | 365 | 0.4% |
| JACKSON | 991 | 1.1% |
| JOHNSTON | 468 | 0.5% |
| RANDOLPH | 650 | 0.8% |
| RICHMOND | 502 | 0.6% |
| ROBESON | 1,011 | 1.2% |
| ROCKINGHAM | 168 | 0.2% |
| ROWAN | 761 | 0.9% |
| RUTHERFORD | 171 | 0.2% |
| SAMPSON | 494 | 0.6% |
| SCOTLAND | 468 | 0.5% |
| STANLY | 662 | 0.8% |
| STOKES | 106 | 0.1% |
| SURRY | 240 | 0.3% |
| SWAIN | 72 | 0.1% |
| TRANSYLVANIA | 65 | 0.1% |
| TYRRELL | 172 | 0.2% |
| UNION | 302 | 0.4% |
| VANCE | 183 | 0.2% |
| WAKE | 23,769 | 27.6% |
| WARREN | 406 | 0.5% |
| WASHINGTON | 100 | 0.1% |
| WATAUGA | 1,304 | 1.5% |
| WAYNE | 2,619 | 3.0% |
| WILKES | 440 | 0.5% |
| WILSON | 876 | 1.0% |
| YADKIN | 65 | 0.1% |
| YANCEY | 58 | 0.1% |
| Others | 46 | 0.1% |
| **Total** | **86,227** | **100.0%** |

# State Employees by Race/Ethnicity

**(Including Only Permanent Full-Time SPA Employees)**

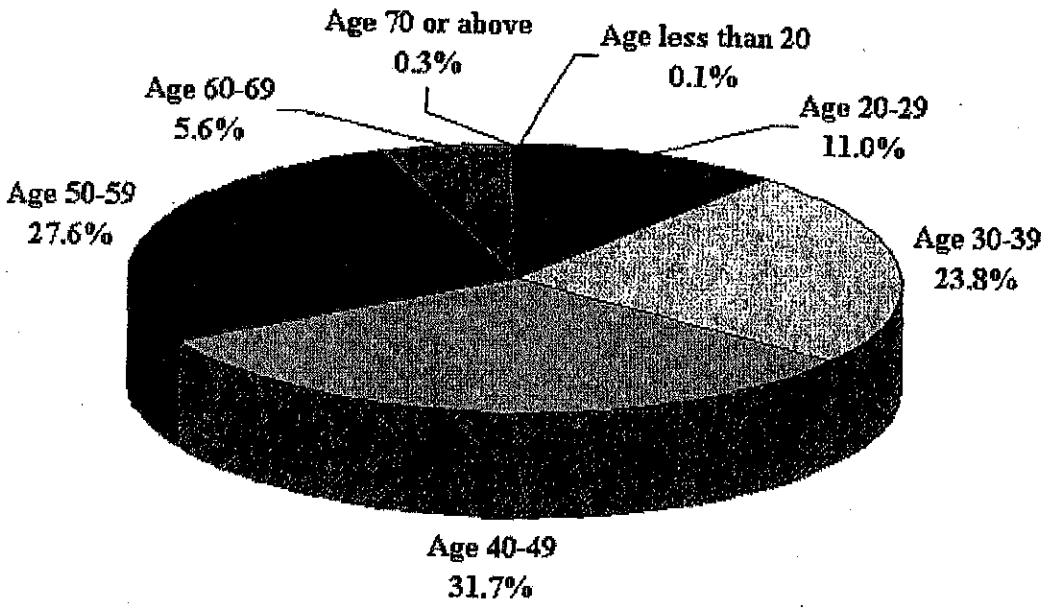
| Race | # Employees | Percent |
|---|---|---|
| White | 57,801 | 67.0% |
| Black | 25,135 | 29.1% |
| Hispanic | 841 | 1.0% |
| Asian American | 1,161 | 1.3% |
| Amer. Indian/Alaska Native | 1,287 | 1.5% |
| Other | 2 | 0.0% |
| **Total** | **86,227** | **100.0%** |



# State Employees by Age

**(Including Only Permanent Full-Time SPA Employees)**

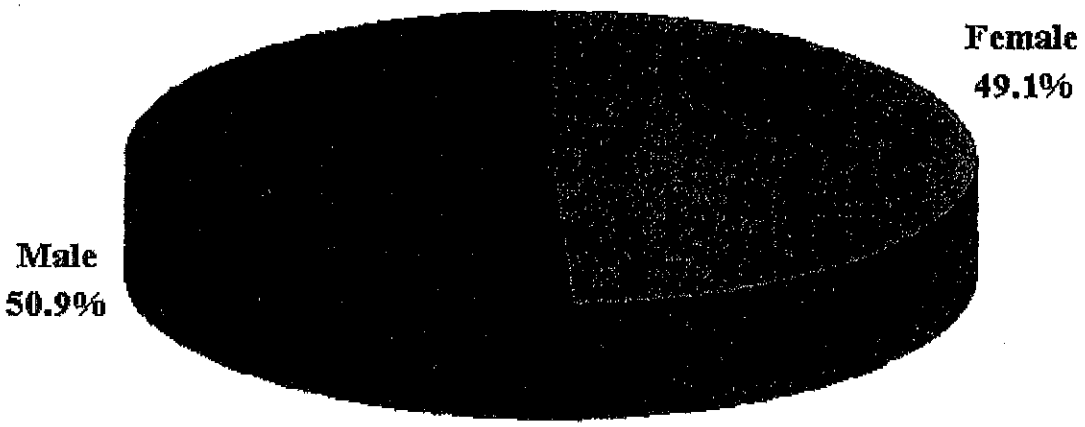
| Age | # Employees | Percent |
|---|---|---|
| Age less than 20 | 51 | 0.1% |
| Age 20-29 | 9,471 | 11.0% |
| Age 30-39 | 20,493 | 23.8% |
| Age 40-49 | 27,373 | 31.7% |
| Age 50-59 | 23,756 | 27.6% |
| Age 60-69 | 4,866 | 5.6% |
| Age 70 & above | 217 | 0.3% |
| **Total** | **86,227** | **100.0%** |



# State Employees by Gender

**(Including Only Permanent Full-Time SPA Employees)**

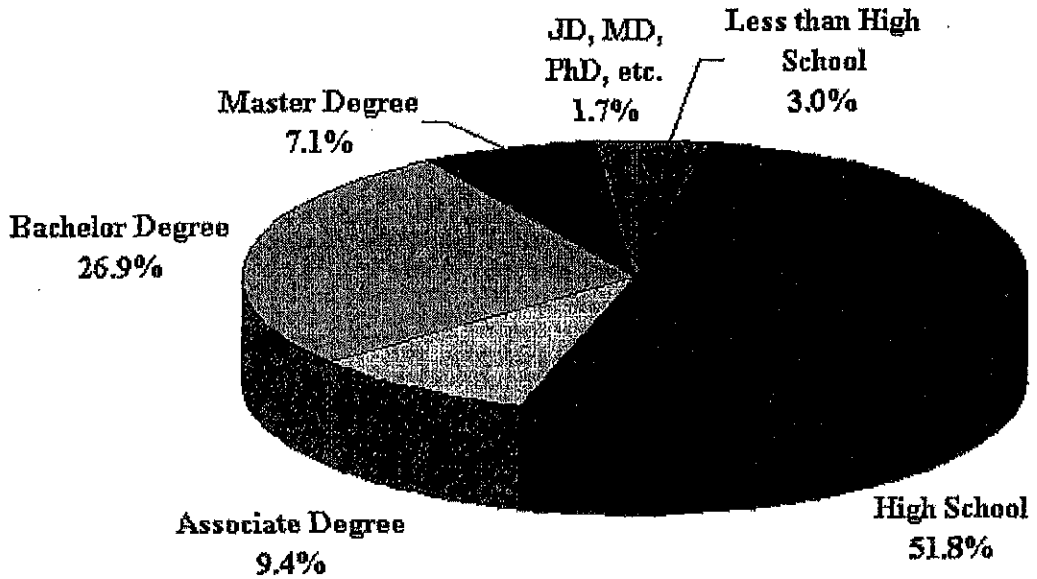
| Gender | # Employees | Percent |
|---|---|---|
| Female | 42,313 | 49.1% |
| Male | 43,914 | 50.9% |
| **Total** | **86,227** | **100.0%** |



# State Employees by Education Level

**(Including Only Permanent Full-Time SPA Employees)**

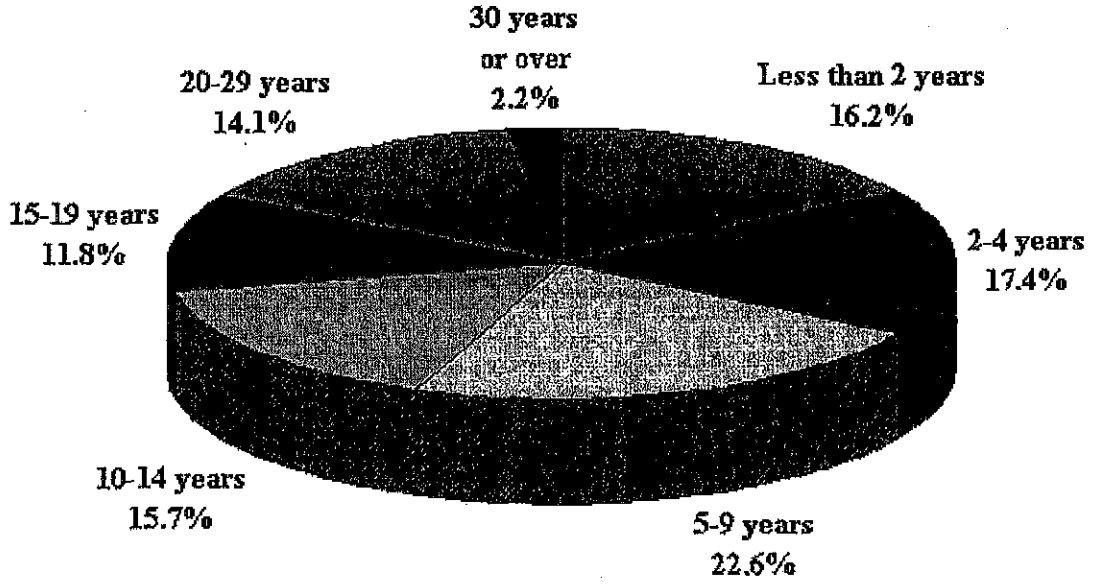
| Education | # Employees | Percent |
|---|---|---|
| Less than High School | 2,576 | 3.0% |
| High School | 44,706 | 51.8% |
| Associate Degree | 8,148 | 9.4% |
| Bachelor Degree | 23,176 | 26.9% |
| Master Degree | 6,150 | 7.1% |
| JD, MD, PhD, etc. | 1,471 | 1.7% |
| **Total** | **86,227** | **100.0%** |



# State Employees by Service Year

**(Including Only Permanent Full-Time SPA Employees)**

| Service Years | # Employees | Percent |
|---|---|---|
| Less than 2 years | 13,977 | 16.2% |
| 2-4 years | 14,961 | 17.4% |
| 5-9 years | 19,520 | 22.6% |
| 10-14 years | 13,501 | 15.7% |
| 15-19 years | 10,200 | 11.8% |
| 20-29 years | 12,135 | 14.1% |
| 30 or over | 1,933 | 2.2% |
| **Total** | **86,227** | **100.0%** |



Appendix F

# Overview of collective bargaining rights in the states of the US

*from* Public Employees Bargain for Excellence:
A Compendium of State Public Sector Labor Relations Laws.
Public Employee Department,. AFL-CIO 1997, pp.3-6

| Table 1. Collective Bargaining Rights for State Government Employees, By State and U.S. Total, 1994-1996 | | | | | |
|---|---|---|---|---|---|
| State | Number of Employees (c) | State Workers Are Covered By A Collective Bargaining Law | Percent of Workers Who Are Covered By Labor Union or Employee Association Agreement (b) | State Workers Are Not Covered By A Collective Bargaining Law | Percent of Workers Who Are Represented By A Labor Union or Employee Association (a) |
| Alabama | 94,700 | | | X | 28.5% |
| Alaska | 23,200 | X | 61.1% | | |
| Arizona | 80,400 | | | X | 14.1% |
| Arkansas | 77,900 | | | X | 13.8% |
| California | 454,300 | X | 55.7% | | |
| Colorado | 65,500 | | | X | 16.4% |
| Connecticut | 64,400 | X | 75.3% | | |
| Delaware | 29,700 | X | 38.5% | | |
| Florida | 208,000 | X | 23.2% | | |
| Georgia | 159,600 | | | X | 14.6% |
| Hawaii | 55,400 | X | 71.4% | | |
| Idaho | 35,800 | | | X | 17.9% |
| Illinois | 183,300 | X | 43.1% | | |
| Indiana * | 96,200 | X | 20.5% | | |
| Iowa | 80,800 | X | 19.8% | | |
| Kansas (e) | 75,300 | X | 14.4% | | |
| Kentucky | 89,300 | | | X | 15.3% |
| Louisiana | 110,200 | | | X | 18.2% |
| Maine | 25,000 | X | 61.2% | | |
| Maryland * | 108,500 | X | 34.0% | | |
| Massachusetts | 100,700 | X | 56.4% | | |
| Michigan | 159,500 | X | 52.9% | | |
| Minnesota | 92,200 | X | 61.1% | | |
| Mississippi | 68,000 | | | X | 11.8% |
| Missouri | 123,400 | | | X | 16.4% |
| Montana | 25,400 | X | 47.3% | | |
| Nebraska | 38,400 | X | 28.1% | | |
| Nevada | 26,500 | | | X | 36.0% |
| New Hampshire | 17,500 | X | 55.6% | | |
| New Jersey | 123,300 | X | 64.1% | | |
| New Mexico | 62,900 | X | 17.4% | | |
| New York | 313,200 | X | 73.8% | | |
| North Carolina (d) | 142,000 | | | X | 16.7% |
| North Dakota | 19,200 | | | X | 23.9% |
| Ohio | 129,000 | X | 47.3% | | |
| Oklahoma | 82,000 | | | X | 18.9% |
| Oregon | 71,500 | X | 60.4% | | |
| Pennsylvania | 152,000 | X | 63.4% | | |
| Rhode Island | 17,900 | X | 68.1% | | |
| South Carolina | 121,600 | | | X | 13.3% |
| South Dakota | 15,600 | X | 13.7% | | |
| Tennessee | 108,000 | | | X | 16.0% |
| Texas | 400,500 | | | X | 11.5% |
| Utah | 58,400 | | | X | 20.1% |
| Vermont | 12,100 | X | 45.5% | | |

## Table 1.
## Collective Bargaining Rights for State Government Employees, By State and U.S. Total, 1994-1996

| State | Number of Employees (c) | State Workers Are Covered By A Collective Bargaining Law | Percent of Workers Who Are Covered By Labor Union or Employee Association Agreement (b) | State Workers Are Not Covered By A Collective Bargaining Law | Percent of Workers Who Are Represented By A Labor Union or Employee Association (a) |
|---|---|---|---|---|---|
| Virginia | 146,900 | | | X | 7.6% |
| Washington (e) | 153,000 | X | 46.4% | | |
| West Virginia | 45,100 | | | X | 14.1% |
| Wisconsin | 108,400 | X | 39.9% | | |
| Wyoming | 15,900 | | | X | 14.3% |
| U.S. Total | 5,151,900 | X | 49.4% | X | 15.3% |

Source: Professor's Barry Hirsch and David Macpherson, Florida State University; produced from the U.S. Bureau of Labor Statistics/Census Bureau's Current Population Survey Outgoing Rotation Group Earnings Files for January 1994-December 1996.

* These states have collective bargaining laws as a result of executive orders. Maryland's Governor issued an executive order during 1996. Indiana's Governor announced the state's policy in 1990.

(a) The percent of workers 'represented' by labor unions or employee associations refers to a CPS variable which reports the percent of workers covered by a labor union contract or an employee association agreement.

(b) The CPS tends to overstate the percent of the workforce 'covered' in states that do not extend public employees the right to collective bargaining. The CPS data for states in which collective bargaining law changes have taken place fairly recently (relative to the sample cited here) may understate union representation.

(c) No comprehensive source exists to estimate the number of state government workers eligible for collective bargaining.

(d) The CPS estimates of North Carolina state government employment in this data set differed by more than 25 percent from the estimates provided by the North Carolina Employment Security (ES) Office. In this instance, the ES employment estimate has been used.

(e) The CPS estimates of Ohio government employment and unionization varied significantly from data provided by the Ohio State Employment Relations Board (SERB). Table 1. cites SERB data.

(f) State employees in these states may not bargain over wages but may bargain over working conditions.

Table 2.
Collective Bargaining Rights for Local Government Employees,
By State and U.S. Total, 1994-1996

| State | Number of Employees | Employees Covered (c) | Workers Are Covered By A Collective Bargaining Law | Percent of Workers Who Are Covered By Labor Union or Employee Association Agreement (b) | Workers Are Not Covered By A Collective Bargaining Law | Percent of Workers Who Are Represented By A Labor Union or Employee Association (a) |
|---|---|---|---|---|---|---|
| Alabama | 131,400 | None | | | X | 34.7% |
| Alaska | 35,300 | All | X | 46.5% | | |
| Arizona | 150,000 | None | | | X | 27.9% |
| Arkansas | 68,400 | None | | | X | 20.9% |
| California | 1,202,600 | All | X | 64.3% | | |
| Colorado | 140,600 | None | | | X | 36.8% |
| Connecticut | 112,800 | All | X | 70.6% | | |
| Delaware | 10,900 | All | X | 46.9% | | |
| District of Columbia | 22,200 | All | X | 48.5% | | |
| Florida | 543,500 | All | X | 43.4% | | |
| Georgia (d),(e) | 248,900 | MARTA Employees | X | 17.7% | | |
| Hawaii | 13,400 | All | X | 83.7% | | |
| Idaho | 45,500 | Teachers, Fire Fighters | X | 30.5% | | |
| Illinois | 426,600 | All | X | 56.3% | | |
| Indiana | 168,800 | Teachers | X | 36.2% | | |
| Iowa | 103,800 | All | X | 47.5% | | |
| Kansas (d) | 102,400 | Teachers | X | 29.9% | | |
| Kentucky (f) | 128,400 | None | | | X | 28.2% |
| Louisiana | 155,700 | None | | | X | 23.5% |
| Maine | 38,000 | All | X | 61.4% | | |
| Maryland (g) | 207,300 | Education, Park Police | X | 61.2% | | |
| Massachusetts | 194,700 | All | X | 66.5% | | |
| Michigan | 336,000 | All | X | 65.5% | | |
| Minnesota | 206,900 | All | X | 64.4% | | |
| Mississippi | 86,500 | None | | | X | 14.2% |
| Missouri | 152,800 | None | | | X | 30.9% |
| Montana | 34,400 | All | X | 44.5% | | |
| Nebraska | 66,300 | All | X | 46.3% | | |
| Nevada | 52,600 | All | X | 66.4% | | |
| New Hampshire | 43,300 | All | X | 55.3% | | |

## Table 2.
## Collective Bargaining Rights for Local Government Employees, By State and U.S. Total, 1994-1996

| State | Number of Employees | Employees Covered (c) | Workers Are Covered By A Collective Bargaining Law | Percent of Workers Who Are Covered By Labor Union or Employee Association Agreement (b) | Workers Are Not Covered By A Collective Bargaining Law | Percent of Workers Who Are Represented By A Labor Union or Employee Association (a) |
|---|---|---|---|---|---|---|
| New Jersey | 327,800 | All | X | 70.6% | | |
| New Mexico | 59,100 | All | X | 34.3% | | |
| New York | 912,800 | All | X | 78.2% | | |
| North Carolina | 225,800 | None | | | X | 13.7% |
| North Dakota | 24,200 | Teachers & Administrators | X | 30.7% | | |
| Ohio | 414,000 | All | X | 67.4% | | |
| Oklahoma | 113,900 | Educ., Police & Fire Fighters | | | X | 32.0% |
| Oregon | 120,500 | All | X | 66.6% | | |
| Pennsylvania | 353,800 | All | X | 59.5% | | |
| Rhode Island | 32,300 | All | X | 80.8% | | |
| South Carolina | 107,200 | None | | | X | 8.1% |
| South Dakota | 29,900 | All | X | 31.2% | | |
| Tennessee | 180,200 | Teachers | X | 24.5% | | |
| Texas (h) | 1,185,500 | None | | | X | 24.3% |
| Utah | 70,200 | None | | | X | 43.7% |
| Vermont | 20,000 | All | X | 52.6% | | |
| Virginia | 231,700 | None | | | X | 23.4% |
| Washington | 196,200 | All | X | 59.5% | | |
| West Virginia | 61,200 | None | | | X | 35.3% |
| Wisconsin | 219,600 | All | X | 66.2% | | |
| Wyoming | 25,800 | Fire Fighters | X | 31.1% | | |
| U.S. Total | 9,726,700 | | X | 57.9% | X | 25% |

Source : Professor's Barry Hirsch and David Macpherson, Florida State University; produced from the U.S. Bureau of Labor Statistics/Census Bureau's Current Population Survey Outgoing Rotation Group Earnings Files for January 1994-December 1996.

(a) The percent of workers 'represented' by labor unions or employee associations refers to a CPS variable which reports the percent of workers covered by a labor union contract or association agreement.

(b) The CPS tends to overstate the percent of the workforce 'covered' in states that do not extend public employees the right to collective bargaining. The CPS data for states in which collective bargaining law changes have taken place fairly recently (relative to the sample cited here) may understate union representation.

(c) No comprehensive source exists to estimate the number of local government workers eligible for collective bargaining.

(d) The state public sector bargaining law is optional for local governments; they must choose to have it apply to them.

(e) The law which grants collective bargaining rights to employees of the Metropolitan Rapid Transit Authority is a state law.

(f) In cities with populations of 300,000 or more (automatically) or cities opting for coverage (for fire fighters) or adopting the merit system (for police). According to 1992 Census data, no city in Kentucky had a population of 300,000 or greater.

(g) Some counties are excluded from the state law granting collective bargaining rights to non-certified school employees.

(h) The Ohio State Employment Relations Board (SERB) estimate of 'covered' workers exceeds the CPS estimate by 12 percentage points. The SERB estimates have been cited in Table 2.

(i) The state law practically fobids collective bargaining for all public employees except for police, fire fighters and teachers. The law with respect to police and fire fighters allows collective bargaining if approved by the voters.