Vol. XLIV, No. 1
JAN-FEB 2019

Label Letter

Union Label & Service Trades Department, AFL-CIO

Lawsuits, Rallies and Arrests as Unions Fought to End Longest Government Shutdown Ever

Twelve union representatives were arrested on the 33rd day of the government shutdown while staging a sit-in at Kentucky Senator Mitch McConnell's office in the Hart Senate Building in Washington, D.C. The sit-in occurred after hundreds of federal employees, union representatives and their allies held a peaceful, silent protest calling for an end to the longest shutdown in history.

In December, at a meeting in the White House, President Trump told House Speaker Nancy Pelosi he would "happily shutdown the government" over the disputed $5.6 billion wall he wants to build along the southern border of the U.S.

Just days later, with no agreement in sight, the partial shutdown began.

By the end of the year, the American Federation of Government Employees (AFGE), the union representing the largest swath of federal workers, filed a lawsuit on behalf of two Bureau of Prison employees, Justin Tarovisky and Grayson Sharp and all federal workers who are required to work without pay.

AFGE's lawsuit asserts that requiring workers to work without pay is a violation of the Fair Labor Standards Act (FLSA). Heidi Burakiewicz, from the D.C.-based law firm Kalijarvi, Chuzi, Newman & Fitch, is acting as the lead attorney for the plaintiff. In a statement issued regarding the lawsuit, Burakiewicz said, "Approximately 420,000 federal employees are continuing to work, but don't know when they will get their next paychecks. This is not an acceptable way for any employer, let alone the U.S. government, to treat its employees. These employees still need to pay childcare expenses, buy gas, and incur other expenses to go to work every day and yet, they are not getting paid. It is a blatant violation of the Fair Labor Standards Act."

FLSA — PAY FOR WORK

Under the FLSA, employees must be paid a minimum wage and compensated for overtime work on their regularly scheduled payday after performing the work.

"Our members put their lives on the line to keep our country safe," said J. David Cox, Sr., AFGE national president, "requiring them to work without pay is nothing short of inhumane. Positions that are considered 'essential' during a government shutdown are some of the most dangerous jobs in the federal government. They are frontline public safety positions, including many in law enforcement, among other critical roles. A substantial number of those working without pay are military veterans. Our nation's heroes, AFGE members and their families deserve the decency of knowing when their next paycheck is coming and that they will be paid for their work. Our intent is to force the government and the administration to make all federal employees whole."

AFGE filed a similar lawsuit during the October 2013 government shutdown which resulted in Judge Campbell-Smith granting a motion for summary judgement that the plaintiffs are entitled to liquidated damages.

The National Treasury Employees Union (NTEU) also filed a lawsuit in the U.S. Court of Federal Claims on behalf of thousands of federal employees who are required to work even though their agencies have not received appropriations from Congress.

The lawsuit was filed on behalf of Customs and Border Protection Officer Albert Vieira and similarly situated employees and asks that the court order compensation to the employees, as well as 100 percent matching liquidated damages.

NTEU represents 150,000 employees at 33 federal agencies and departments including workers at the IRS, Customs and Border Protection, Federal Law Enforcement Training Center, Commodity Futures Trading Commission, Environmental Protection Agency, Federal Communications Commission, Food and Drug Administration, Federal Election

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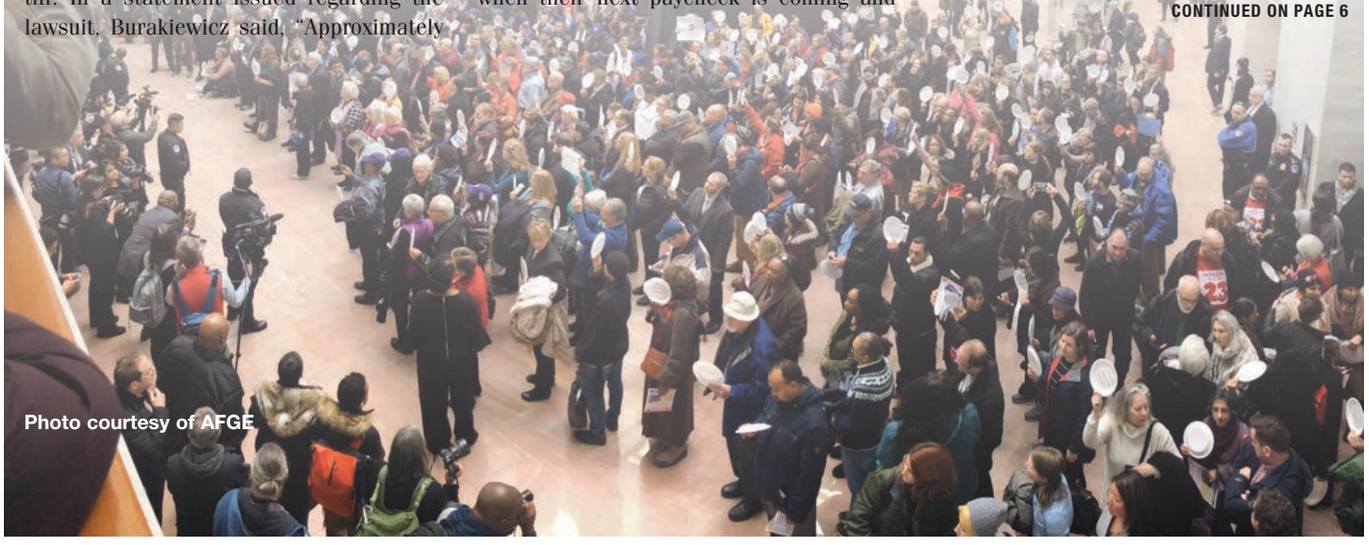
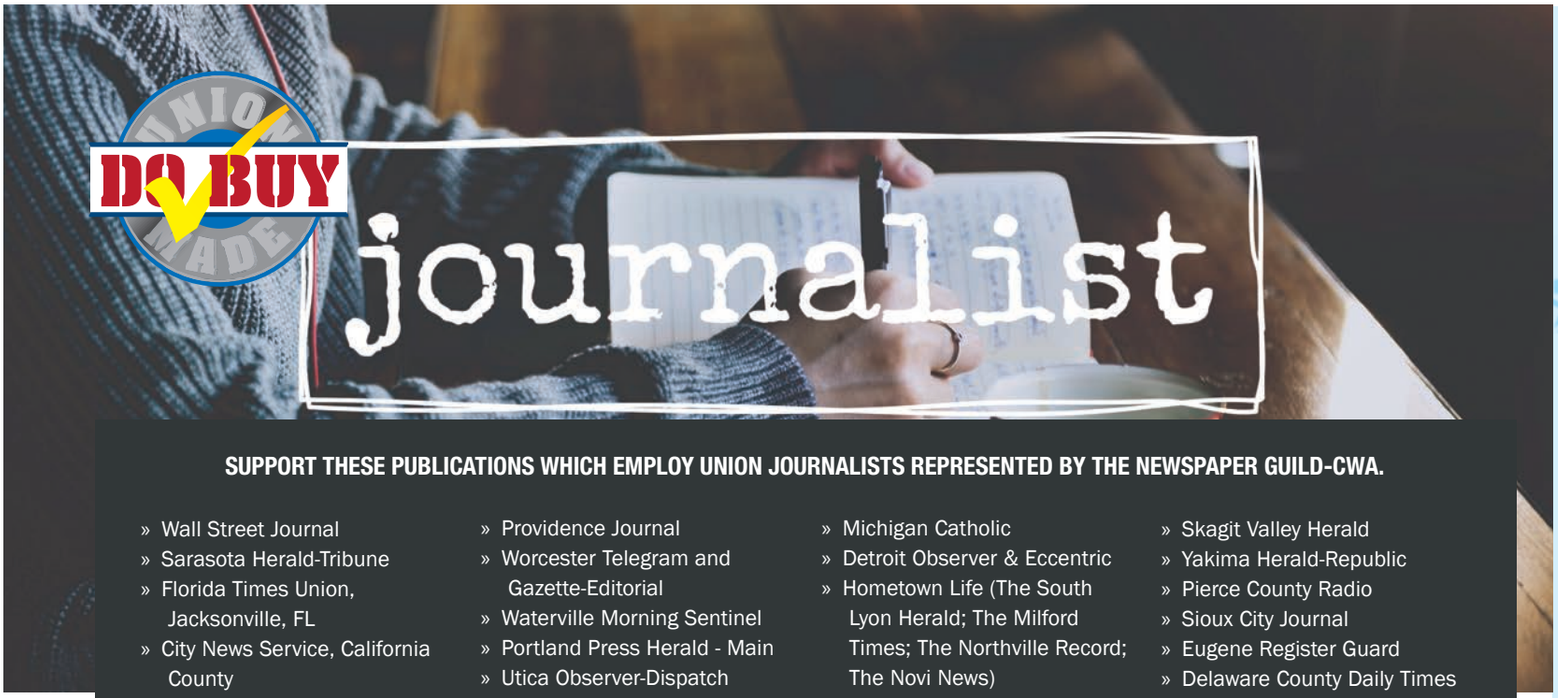


Photo courtesy of AFGE



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- Canton Repository
- Cleveland Plain Dealer
- Massillon Independent
- Youngstown Vindicator
- Detroit Free Press
- Detroit News - Editorial
- Macomb Daily
- Royal Oak Daily Tribune
- Michigan Catholic
- Detroit Observer & Eccentric
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- Milwaukee Community News
- Indianapolis Star
- Chicago Sun-Times
- Gary Post Tribune
- Glenview Pioneer Press
- Waukegan Lake County News-Sun
- People's World
- Chicago Reader
- Hinsdale Doings
- Dayton Daily News
- CMGCS Dayton copy desk
- Springfield, OH News Sun
- Kenosha News
- The Sheboygan Press
- Freeport Journal-Standard
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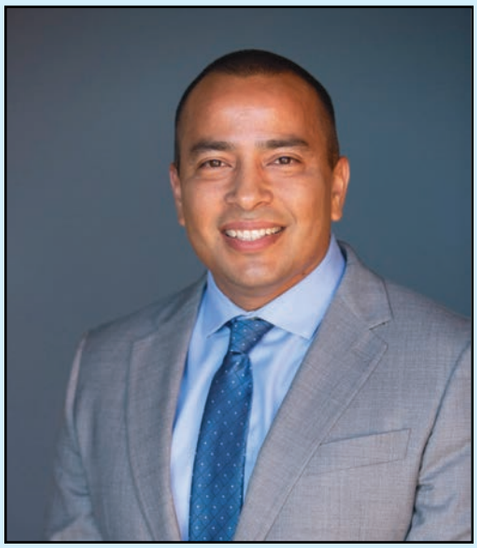
Walk in My Shoes

IAFF member Daniel Valenzuela Running for Mayor of Phoenix



My name is Daniel Valenzuela and I am in my 15th year as a Fire Fighter for the City of Glendale Arizona. I am a proud dues paying member of the International Association of Fire Fighters Local 493 and former shop representative for the Glendale Chapter of this local.

Being a union member and fire fighter has given me and my family a middle-class quality of life that I never thought possible growing up.

As a child, we were very poor. My single mother worked hard to support us on her own, but we had to move from house to house, neighborhood to neighborhood. I attended 13 different schools in Phoenix and lived at more addresses.

One day, a group of Phoenix fire fighters showed up at our house to assist a family member with an emergency, I noticed how rewarding their work was and that some of them looked like me. They were Hispanic. Starting on that day, I knew I was going to be a professional fire fighter.

After I settled into that job and the middle-class life provided to me as a union member, I began to look for ways to give back. I became involved in the union's charitable and political activities until eventually, this led me to run for and win a seat on the city council in Phoenix where I served multiple terms and, in 2017, I resigned my council seat to be the next Mayor of Phoenix.

I was fortunate enough to survive an open primary election (Phoenix council and mayor elections are non-partisan) with the general election coming up on March 12, 2019. As the only union member in the race, I am excited everyday when I go out and campaign to know that tens of thousands of union members have my back and, if elected, union members who so often use their money and toil to support a politician will now have an actual member who represents them.

If elected, I will have to step away from the career that I love to be a full time Mayor, but I will always continue to be a dues paying member.

You can find out more about my campaign at danielforphoenix.com ■

WHAT'S YOUR STORY?

In 150 words or less—accompanied by a picture of you at work…Help us walk in your shoes. We're open to all union members, active, retired, laid off.

"We want rank and file members to help us to illustrate the rich, diverse tapestry of hard working men and women who make up the American labor movement. They are proud of their work and proud of the contributions they make to their communities," explains Union Label Department President Richard Kline. "We want to demonstrate to American consumers and businesses that union labor gives added value in quality and reliability to products and services that are bought and sold."

The pictures and stories we get will be published in the Label Letter and posted on the Department's website—and perhaps in posters and other promotional materials. E-mail a Walk in Your Shoes to: unionlabel@unionlabel.org; or send by regular mail to:

Walk In My Shoes
c/o Union Label & Service
Trades Dept. (AFL-CIO)
815 16th St. NW,
Washington, DC 20005 ■

Joint Employment Rules Overturned in Appeals Court

In a late December 2018 ruling, the U.S. Court of Appeals for the D.C. Circuit, in a 2-1 decision, said that a 2015 National Labor Relations Board decision on joint employment was too broad.

The Court ruling said that the NLRB did not properly define the kind of "indirect control" over working conditions that the agency said could make companies so-called joint employers of contract or franchise workers.

The U.S. Chamber of Commerce had fought hard to have the rule overturned, claiming that the Obama-era ruling could ruin supply chains and franchise models.

In the 2015 case, the NLRB said that indirect control over the way work is performed could be enough to establish joint employment. The D.C. Circuit said that could be the case, but the board's definition of indirect control went beyond the traditional legal understanding of what constitutes an employment relationship.

The court sent the case back to the NLRB with orders to "confine" its definition of control over working conditions.

The NLRB, whose current majority was appointed by President Donald Trump, proposed a rule in September that would restore an earlier standard for determining when a company is a joint employer. The Board has said it expects to adopt a final rule by June that would definitively change the 2015 joint employer rule. ■

SHUTDOWN

CONTINUED FROM PAGE 1

Commission, National Park Service, Patent and Trademark Office, Securities and Exchange Commission and the U.S. Department of Agriculture.

"These civil servants took an oath to the Constitution and they do not deserve to be treated this way," said NTEU National President Tony Reardon.

The union later amended its lawsuit challenging the constitutionality of the Antideficiency Act claiming that President Trump cannot spend money that has not been appropriated by Congress.

The National Air Traffic Controllers Association has also sued the government on behalf of its members who have not been paid for their work since the Federal Aviation Administration's appropriations lapsed in December.

NATCA requested an expedited hearing on its motion for a Temporary Restraining Order against the U.S. government for its violation of the 5th Amendment of the U.S. Constitution. The union alleges that the government unlawfully deprived NATCA members of their earned wages without due process.

U.S. District Court for the District of Columbia Senior Judge Richard J. Leon denied the union's request for a temporary restraining order. The union has vowed to continue to "oppose the injustice of our members working while being deprived of their earned wages."

"Although we are disappointed with the judge's ruling denying NATCA's motion for a temporary restraining order, we are encouraged that he acknowledged the ongoing hardships our members are facing because of the shutdown. In recognition that time is of the essence, the judge ordered expedited briefing on NATCA's motion for a preliminary injunction. We will continue to oppose the injustice of our members working while being deprived of their earned wages and look forward to making our argument on Jan. 31," said NATCA Executive Vice President Trish Gilbert after the court ruling.

The shutdown ended after 35 days when the Senate passed a Continuing Resolution to fund the government through February 15. The CR did not include funding for President Trump's wall. ■

Put a Union Label on It Girl Scout Cookies Made by IBT, BCTGM

Thin Mints, Caramel deLites, Tagalongs or whichever flavor you prefer, the iconic Girl Scout cookies are all union-made. Members of the BCTGM and the Teamsters at two U.S. factories make and bake these delicious treats.

The Interbake Foods bakery in North Sioux City, South Dakota and the Little Brownie Bakers bakery in Louisville, Kentucky employ members of the BCTGM Local 433 and IBT Locals 783 and 554.

For more than 100 years, Girl Scouts and their supporters have helped ensure the success of the iconic annual cookie sale. Beginning as homemade cookies from the kitchens of girl scout members as a way to finance troop activities, the sale of cookies evolved to begin nationwide in 1937, with more than 125 Girl Scout councils holding cookie sales.

In 1951, with three varieties of cookies: Sandwich, Shortbread, and Chocolate Mints (now known as Thin Mints) girls began setting up tables at shopping malls to sell cookies. The numbers of cookie offerings have changed year after year, as have the flavors, but one thing remains the same, the mission behind the sales: to help girls learn skills that are essential to leadership, to success, and to life.

Today, the Girl Scouts sell cookies online as well as in person, offering a free downloadable app that can help cookie lovers find the nearest seller in their area. You can download the app for both Apple and Android devices or visit their website www.girlscouts.org

The sales are seasonal, but fortunately they are happening now. As well, February 23-25 is the National Girl Scout Cookie Weekend. ■

NLRB May Overturn "Purple Communications" Ruling in 2019

On August 1 of last year, the National Labor Relations Board issued a Notice and Invitation to File Briefs, asking whether the Board should overrule its Obama-era decision on Purple Communications, Inc., that held that employees are allowed to use their employer-owned email system during non-work hours for union organizing activities and mobilization.

Google, whose employees have captured international attention in recent months through high-profile protests of workplace policies, has filed a brief on the Purple Communications decision, asking the NLRB to disallow employee freedom to conduct online organizing.

Google's attorneys wrote that the 2014 standard "should be overruled" and a George W. Bush-era precedent—allowing companies to ban organizing on their employee email systems—should be reinstated.

Google's employee activists used online communication to organize a huge walkout in November, galvanizing tens of thousands of employees across the world to walkout after discovering the company's poor handling of sexual harassment claims.

"In an email to all of Google, Sundar assured us that he and Google's leadership supported the walkout. But the company's requests to the National Labor Relations Board tell a different story," organizers of the employee walkout wrote in a statement. "If these protections are rolled back, Google will be complicit in limiting the rights of working people across the United States, not just us."

The employees who wrote the statement asked not to be named in a Bloomberg Law article for fear of retaliation. ■

NLRB's Robb Wants to Exterminate 'Scabby'

The National Labor Relations Board (NLRB), has signaled it would like to see "Scabby" the Rat — the giant inflatable gray rodent often used by unions to protest workplace grievances — be permanently deflated.

A recent article appearing in Bloomberg News, asserts that the NLRB general counsel, Peter Robb, has "had enough of the rat — to the point that since April 2018 he's been looking for a case he can use to exterminate it."

"Scabby" originated in Chicago in 1990 when Bricklayers and Allied Craft Workers Organizer Ken Lambert came up with the idea to use a giant balloon to draw attention to his union's picket line. The 12 to 30 feet tall rat, with teeth bared and claws raised aggressively has been attacked over the years both on the picket line by management — one contractor stabbed a Scabby with a knife — and in court.

For example, in a lawsuit in 2014, a New York contractor filed an injunction against a union it claimed broke a collective bargaining agreement by using the inflatable outside of a job site. The CBA prohibited strikes, walkouts, pickets, work stoppages, slowdowns, boycotts, or other disruptive activity. A judge disagreed, stating that the union had "a constitutional right to use an inflatable rat to publicize a labor dispute."

According to Bloomberg News, since the use of "Scabby" has been upheld under the First Amendment, Robb is taking a different track. Board attorneys are arguing that the use of the inflatable violates the National Labor Relations Act "secondary boycott provisions."

"In its simplest terms, the argument was that it violates the secondary boycott provisions of the act to engage in that kind of behavior because it's much more like picketing than hand-billing or passing out flyers," according to Brian Hayes, a former NLRB member who co-authored the dissent.

The Board is resurrecting a formerly dismissed case involving an excavation company and the a International Union of Operating Engineers local, to try to advance its argument.

Labor advocates say the argument is unlikely to succeed. ■

FLRA Refusing to Negotiate with Its Employees' Union

The Federal Labor Relations Authority, the tiny government agency that regulates labor relations between the federal government and its employees, is refusing to negotiate with the union representing its own employees. The employees' union — the Union of Authority Employees or UAE — has represented workers at the FLRA for nearly 40 years.

The Chair of the Agency, Colleen Kiko, announced in a letter to the UAE that the FLRA was never supposed to be allowed to have a union because, she wrote, "no collective bargaining unit can be appropriate (even in an agency included under the Statute) if it includes 'an employee engaged in administering the provisions of [the Statute].'"

"The FLRA will not recognize the UAE, or any other labor organization, as an exclusive representative of the employees," Kiko told the leaders of the UAE

The Trump Administration has attempted to limit government unions' and federal employees' rights since taking over. Trump signed a number of Executive Orders that make it easier to fire federal employees, and has limited "official time," time that union leaders can take to represent fellow workers on union issues. A federal judge blocked significant portions of those moves, a decision that's currently on appeal.

"People already have low morale because we're not allowed to do half of our jobs," a current FLRA employee, who spoke on condition of anonymity because of fear of retaliation, told Bloomberg Law. "Now, knowing what we do every day, it's more upsetting that our agency won't recognize our own union."

The FLRA hears labor-management disputes involving some 2.1 million non-postal federal employees. The UAE represents roughly 50 FLRA employees, mostly lawyers. The Justice Department in 1980 issued an advisory opinion affirming the FLRA's authority to recognize the union. ■

NLRB Overturns Rule on Independent Contractors

In late January, in yet another anti-worker ruling, the National Labor Relations Board overturned previous worker protections on who could be categorized as an independent contractor.

By a 3-1 party-line vote, Republican board members sided against drivers for SuperShuttle, who were seeking to unionize at Dallas-Fort Worth airport. The NLRB ruled that they were independent contractors, not employees, and therefore weren't protected by the National Labor Relations Act.

The Board's decision overturned a 2014 Obama-era ruling on a case against FedEx Home Delivery that created a new standard by which to determine if workers were contractors. The majority in this case wrote that the Obama-era ruling had "impermissibly altered the board's traditional common-law test" by "severely limiting" the significance of workers' "entrepreneurial opportunity" when analyzing whether they were contractors or employees.

The Board said that franchisees own (or lease) and thus control their vans; retain complete control over their daily work schedules and working conditions; and pay a monthly fee to the franchisor, while keeping all collected fares. The Board held that these facts provided franchisees with significant entrepreneurial opportunity and control over how much money they made each month.

Wilma Liebman, who chaired the NLRB in President Obama's first term, called the new ruling the latest example of the current board "ignoring worker realities and constricting labor law rights." ■

LA Teacher's Strike Ends with 'Path Forward'

Photo courtesy of UTLA Facebook Page

After twenty months of negotiations stalled, United Teachers Los Angeles (UTLA) members voted overwhelmingly in January to strike. Their ask: smaller class sizes, more resource staff for students, and increased salaries and benefits for educators and staff.

On Monday, January 14, more than 30,000 UTLA teachers and staff took to the streets for six days as UTLA President Alex Caputo-Pearl and its negotiating team met with representatives from the LA Unified School District, Superintendent Austin Beutner, and LA Mayor Eric Garcetti. Finally, after a marathon 21-hour bargaining session that began on January 21 and ran until the early morning hours the next day, the two groups came to a tentative agreement. Later that day, the agreement was presented to the UTLA membership for a vote.

"This is a historic agreement," said Mayor Garcetti. "It's time for a new day in public education in Los Angeles."

By Tuesday evening, Caputo-Pearl announced that UTLA members had ratified the agreement by a "super majority."

According to the summary presented to its members online, the agreement calls for an immediate reduction of seven students in secondary math and English classes, with further reductions in all classes occurring each year through 2022. As well, teachers will receive a three percent retroactive salary increase for the 2017-18 school year and a three percent salary increase retroactive to July 1, 2018 totaling a six percent salary increase. The district will also hire 300 new nurses, more than 80 additional teacher librarians, and committed to hiring at least 17 additional school counselors to reach a 500-1 counselor to student ratio. Limits on testing, a Green Space Task Force, salary increases and protections for substitute educators and improved rights for special education teachers are also addressed in the new contract.

Legislatively, UTLA, Mayor Garcetti, and the LAUSD will jointly advocate for increased county and state funding. This includes funding for nurses, special education and community schools. The Mayor will also endorse the Schools and Communities First ballot initiative and work with LAUSD and UTLA to advocate for its passage.

TEACHER STRIKES POSSIBLE IN DENVER, OAKLAND

While teachers in LA were being briefed and voting on their new contract, teachers in Denver voted overwhelmingly to strike for the first time in 25 years.

Rob Gould, lead negotiator for the Denver Classroom Teachers Association, said 93 percent of unionized teachers voted in favor of a strike.

Denver educators have been in negotiations for about a year. The union is seeking increased base pay, including lessening teachers' reliance on one-time bonuses for things such as having students with high test scores or working in a high-poverty school. Teachers also want to earn more for continuing their education.

DCTA President Harry Roman said that the district's bonus system has changed dramatically since voters approved funding for it in 2005, leaving teachers dependent on earning bonuses for things that are largely outside of their control. He said that has led to high turnover for teachers seeking financial stability in districts with more traditional pay systems.

The Denver Public Schools Superintendent Susana Cordova says the district would turn to substitute teachers and administrators with teacher's licenses to keep schools open should the teachers walk out.

Oakland teachers may too vote to strike as they demand a 12 percent raise over three years and smaller class sizes, and that the district hire more counselors and nurses. The district has offered a five percent raise over three years.

Oakland's last sanctioned teacher strike was in 2010 and lasted one day. A 26-day strike occurred in 1996.

The 3,000 members of the Oakland Education Association will vote January 29 to February 1 on whether to authorize union leaders to call a strike, should contract negotiations break down.

In a statement released by the OEA, union President Keith Brown said, "If the district does not present a proposal that truly commits to ending the teacher retention crisis, that does not commit to lowering class sizes, investing in student support and investing in a living wage to keep teachers in Oakland, then it's time for Oakland teachers to draw the line, and that line will be a picket line."

According to a report from the state's Department of Education, the starting salary for an Oakland teacher is $46,570, with the highest paid teachers making $83,724. ■

AFL-CIO NATIONAL BOYCOTTS
JAN-FEB

HOSPITALITY, TRANSPORTATION & TRAVEL

SUBMITTED BY UNITE HERE!

Please support the workers in these hotels by continuing to boycott the following properties:

- **ANCHORAGE, AK: Hilton; Sheraton**
- **CALIFORNIA: Hyatt Regency Santa Clara, Hyatt Regency Sacramento, Hyatt Fisherman's Wharf San Francisco, Hilton Long Beach, Le Meridien San Diego, Hilton LAX—*This includes the Crowne Plaza Hotel LAX, Yokoso Sushi Bar, the Landing Restaurant, Century Taproom, and the Boulevard Market Cafe.***
- **SEATTLE: Grand Hyatt Seattle and Hyatt at Olive 8 Seattle**

OTHER

SUBMITTED BY Farm Labor Organizing Committee (FLOC)

- **Reynolds American, Inc., Vuse e-cigarettes**

FOOD

SUBMITTED BY United Steelworkers (USW)

- **Palmero Pizza**

SUBMITTED BY Bakery, Confectionery, Tobacco Workers and Grain Millers International Union (BCTGM)

- **Mondelez International Snack Foods (those made in Mexico)**

LEGAL

SUBMITTED BY American Federation of State, County & Municipal Employees

- **Gleason, Dunn, Walsh & O'Shea**
- **Mcdonald, Lamond, Canzoneri and Hickernell**

When some labor disputes with businesses cannot be resolved, the AFL-CIO supports its affiliates by endorsing their boycotts. A boycott is an act of solidarity by voluntarily abstaining from the purchase or use of a product or service.

POLICY GUIDELINE FOR ENDORSEMENT OF AFFILIATES' BOYCOTTS

The AFL-CIO Executive Council has developed policy guidelines that regulate how the federation endorses boycotts undertaken by its affiliates. To get AFL-CIO sanction, boycotts should be directed at primary employers.

THE GUIDELINES INCLUDE THESE PROVISIONS:

- All requests to the national AFL-CIO for endorsement must be made by a national or international union.
- Any affiliated union with a contract in force with the same primary employer will be contacted by the AFL-CIO to determine whether there is an objection to the federation's endorsement.
- Affiliates will be asked to provide the AFL-CIO with background information on the dispute in a confidential information survey. Prior to endorsement of the boycott, the executive officers, or their designees, will meet with the national union's officers, or their designees, to discuss the union's strategic plan and timetable for the boycott, or other appropriate tactics, and to discuss the federation's role.
- The national or international union initiating the boycott is primarily responsible for all boycott activities; the AFL-CIO will provide supplemental support.
- Boycotts will be carried on the AFL-CIO national boycott list for a period of one year, and the endorsement will expire automatically at the end of that time. National and international unions may request one-year extensions of the listings for actions where an organizing or bargaining campaign is actively in place. ■

(These guidelines were adopted by the AFL-CIO Executive Council in April 2011.)

In This Issue...

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WASHINGTON, D.C.

TIME VALUE

EndNotes

Label Letter

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815 16th St. N.W. Washington, D.C. 20006
www.unionlabel.org
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Vol. XLIV, No. 1 · ISSN 0161-9365

Label Letter is published bimonthly by the Union Label & Service Trades Department, AFL-CIO. Subscriptions to members only. USPS #424-530. Periodicals postage paid at Washington, D.C. Postmaster: Send corrections of address to Room 209, 815 16th Street, N.W., Washington, D.C. 20006. Phone: 202-508-3700.

By Rich Kline, *President, UL&STD*

First Amendment is Vitally Important to the Labor Movement

Assaults on the First Amendment continue as Republicans tried again unsuccessfully to pass Marco Rubio's Combating BDS Act, a measure designed to protect Israel. Unfortunately, an act that criminalizes boycotts in one sphere may lead to criminalization of other boycotts and protests.

Reactionaries in state legislatures have enacted similar legislation to Rubio's proposal. Legal restrictions on protests and demonstrations are becoming more common. Although frequently aimed at environmentalists, these restrictive laws can be expanded to include other protests including labor protests.

Attacks on Labor's right to protest are a matter of record. The history of the Labor Movement is rife with accounts of legalized repression by reactionary politicians and their backers. If the First Amendment is infringed upon proponents of one cause, what guarantees its sanctity when infringed upon by another interest?

In Los Angeles, 30,000 teachers were striking for a reduction in class sizes, improvements in safety, accountability of charter schools and increases in wages and benefits commensurate with the skyrocketing cost of living in Los Angeles. LA's striking teachers used their rights guaranteed by the first Amendment. Protecting those rights is a vital concern for the Labor Movement.

The boycott, the strike, the informational picket, leafletting and other actions and communications are the mainstays of protest and social progress. The First Amendment enshrines these activities as basic rights. They must be protected. Any doubt about the need to protect these rights disappears upon reading this Label Letter, numerous workers express their fear of retaliation for expressing workplace dissatisfaction. ■