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Contingent Jobs and Community Organizing: A Georgia Case Study on the Social Determinants
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Contingent Jobs and Community Organizing: A Georgia Case Study on the Social Determinants
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An abstract of
a thesis submitted to the Faculty of the
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Abstract

Contingent Jobs and Community Organizing: A Georgia Case Study on the Social Determinants of Health

By Roger Sikes

Background: Employment structures in the US are shifting towards contingent jobs characterized as part-time, temporary, contract and seasonal. These shifts in employment structures are situated within the social determinants of health framework and may have implications towards health outcomes. A case study in Georgia examines the vulnerabilities of contingent work, in this case, exposed by a policy change at the state level and methods used to overcome them. In early 2012, Georgia school workers were denied their unemployment benefits during periods of layoffs. A labor/community coalition called Atlanta Jobs with Justice developed the “Justice for School Workers” campaign in order to win back over \$8,000,000 in denied benefits to 4,000 Georgia school workers. The back pay was an important victory, but the underlying contingent employment structures remain.

Objectives: To understand how shifts in US employment structures fit into the social determinants of health framework, explore public policy responses to contingent employment in the state of Georgia and to understand how Georgia school workers were able to win back their unemployment benefits.

Methods: A case study approach used qualitative data, documentation, direct observation and participation to develop a descriptive analysis of the “Justice for School Workers” campaign.

Results: A combination of drastic cuts to basic levels of income, existing relationships, community organizing, and smart targeting helped to win back unemployment benefits for Georgia school workers.

Discussion: This case study lies at the intersection of massive shifts in US employment structures, changes in public policy and potential linkages to health and social well-being. The case in Georgia offers in-depth insight into the structural precariousness of contingent work. A policy decision by a statewide official exposed this vulnerability as well as the critical role of the public safety net for this contingent work force. If the school workers were employed year round on a twelve-month pay scale similar to public school teachers, the reliance on the state’s safety net would diminish.

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Table of Contents

1	Chapter 1: Introduction
6	Definition of Terms
7	Chapter 2: Literature Review
21	Chapter 3: Methodology
27	Chapter 4: Results
28	Campaign Timeline
56	Chapter 5: Discussion & Conclusion
66	Implications & Recommendations
69	References
73	Appendix 1 Institutional Review Board (IRB) Determination
74	Appendix 2: First letter from US DoL to the Georgia Labor Commissioner
77	Appendix 3: Letter from food service contractor to employee about possible denial
78	Appendix 4: Notice of public hearing about unemployment rule change
79	Appendix 5: Letter from Congressman John Lewis
80	Appendix 6: Georgia Labor Commissioner's letter in response to the US DoL
83	Appendix 7: Letter from US DoL to Georgia Governor Nathan Deal
85	Appendix 8: Final letter from US DoL to Georgia Labor Commissioner

Chapter 1: Introduction

Employment norms and structures in the US are shifting from full-time, long term employment with a single employer to contingent jobs characterized as part-time, temporary, contract and seasonal ("Contingent Employment," 1991). Contingent jobs represent over 30% of the US economy. The US Governmental Accountability Office (GAO) estimates that over 42 million US workers now hold contingent jobs ("Employment Arrangements, 2006,"). Contingent jobs can be defined broadly as work arrangements that are not long term, year-round, full-time employment with a single employee ("Employment Arrangements, 2006,"). The rise of contingent jobs interacts with various levels of the social determinants of health framework including government policy, occupation, income and access to the healthcare system which all in-turn relate to health equity and well-being (Figure 1). These systemic shifts in employment structures have potential implications for health outcomes at the individual and community level.

The Affordable Care Act (ACA) intends to expand health insurance coverage to millions of Americans in large part through employer obligations that incentivize employers to provide health insurance to full time workers (30+hours per week) and also through Medicaid expansion to adults at or below 138% of the poverty level (Stephens, 2013). The Medicaid expansion is particularly relevant to contingent workers who on average have lower family incomes than non-contingent workers. Nationally 7.7% of standard full time workers had family incomes below \$15,000 per year compared to 29.8% of agency temporary workers. Contingent workers are less likely to have employer provided health insurance (18%) relative to non-contingent workers (52%) ("Contingent Workers," 2000). Contingent workers are less likely to have pension plans, about 1 in 5 compared to about 1 out of 2 of their non-contingent counterparts ("Contingent Arrangements "). The ACA could provide healthcare access to increased numbers of contingent

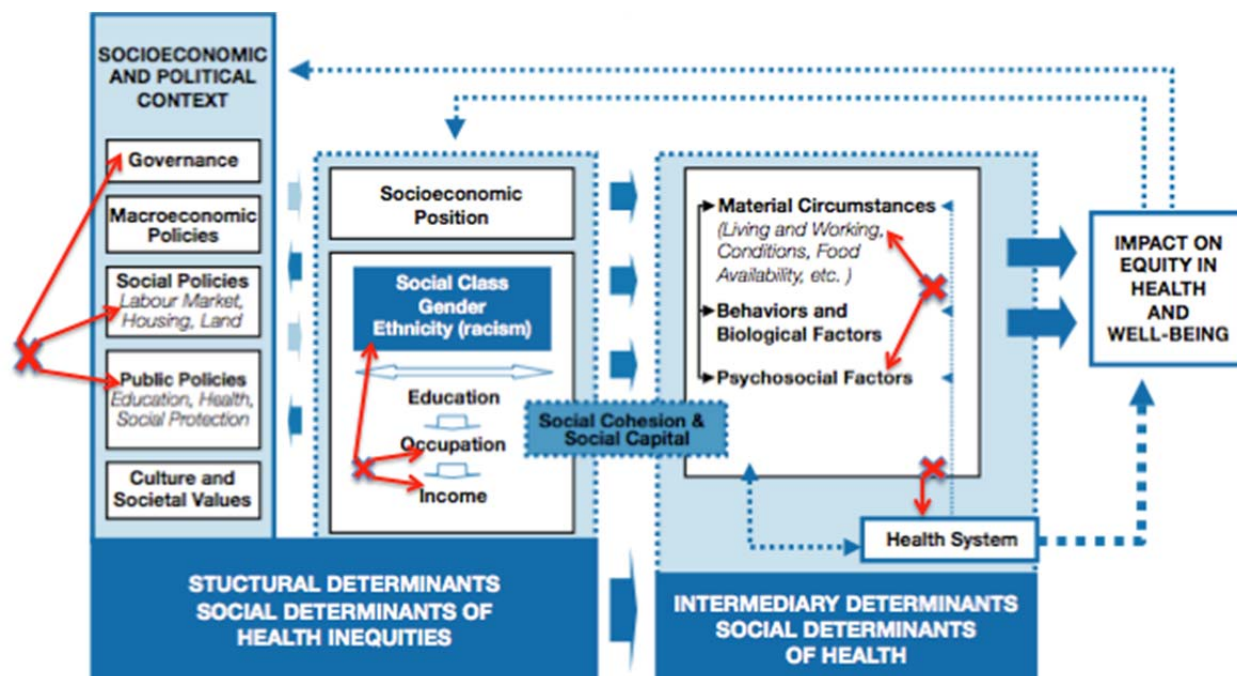


Figure 1 The Social Determinants of Health (SDH) Framework according to the Commission on the Social Determinants of Health. The red arrows were added to indicate where contingent job structures interact with the SDH framework.

workers who otherwise would have no insurance. However, the precarious and part-time nature of contingent work may provide loopholes for employers to avoid providing health insurance. Loopholes for employers may include hiring employees for less than 30 hours per week to avoid paying health care benefits or keeping contingent workers for less than 12 months ("Wal-Mart,"). Lower levels of health benefits coverage by employers represents an underlying vulnerability of contingent work.

Employment laws and policies were formed long before contingent work was a rising force in the US economy and they have not been updated to reflect changing employment structures (Smith R, 2010). Policies around health insurance, pension benefits, on the job training and unemployment benefits were largely established for full time, full year employment with a single employer. As a result, contingent workers do not receive the same benefits and pay that

full-time employees receive (Schroeder, 1995).

The underlying precariousness of jobs that are not full time, year round, long-term with a single employer may create other vulnerabilities that are not easily quantified or understood. One of these vulnerabilities is being overtly subjected to the whims of a public official (Badertscher, 2012). For example, the contingent school workers in Georgia were vulnerable to the agenda of a Georgia Labor Commissioner. The following case study of a contingent workforce in the state of Georgia aims to better understand the vulnerabilities of contingent work as exposed by a change in the state's public safety net and to analyze the strategies that were used to overcome those vulnerabilities. It is framed within the context of the social determinants of health approach to policy and programmatic analysis.

Problem Statement:

In Georgia, contracted school employees including food service workers, bus drivers and crossing guards are laid off over school breaks such as the summer and winter holidays. During these periods of layoffs contracted school workers have historically drawn unemployment benefits from the state. The precariousness of this employment situation was exposed when these unemployment benefits were abruptly cut off throughout 2012-2013, leaving thousands of school workers with no income during these periods. This caused mental stress, forced workers off of health insurance, displaced families, reduced access to transportation and made it difficult for workers to maintain a nutritious diet for themselves and their families.

After nearly a year long effort called the "Justice for School Workers" campaign led by Atlanta Jobs with Justice, the Georgia Labor Commissioner was pressured to pay back \$8,000,000 to over 4,000 Georgia school workers.

This was an important and empowering step for Georgia school workers. However, the underlying problem remains: tens of thousands of contracted Georgia school workers are in a precarious and contingent employment position, often living paycheck to paycheck and are dependent on unemployment benefits during layoff periods. The current Georgia Labor Commissioner has made clear his intent to cut off these unemployment benefits in the near future. In the short-term it is important that unemployment benefits are available to school workers who are laid off over school breaks. A more long-term strategy is to reduce contingent employment and increase full time, year round, long-term employment.

Purpose statement

To better understand how shifts in US employment structures fit into the social determinants of health framework and to explore public policy responses to contingent employment in the state of Georgia.

Research Question

Why was the campaign to reinstate unemployment benefits for contracted Georgia school workers successful in a state historically antagonistic towards workers' rights?

Significance statement

In the case of the GA school workers, it is likely that the GA Labor Commissioner will try to pass legislation in 2014 that will bar access to unemployment benefits during future periods of layoffs. A clearer understanding of how the Justice for School Workers campaign was able to overcome the Labor Commissioner's first effort is important to finding a more long term

solution.

Lessons, failures and successes learned in GA can be used to inform strategies in other communities, industries, states and regions and to address current issues faced by contingent workers. For example, contingent workers are a large constituency who will be impacted by the ACA. A deeper understanding of this workforce may help to form strategies to ensure that the ACA will increase access to healthcare for these workers.

Definition of Terms

Contingent work - Workers who do not have standard full-time employment, that is, are not wage and salary workers and working at least 35 hours a week in permanent jobs ("Employment Arrangements, 2006,").

Neoliberal policies - "the deregulation of corporations, and particularly of financial institutions; the rollback of public services and benefit programs; curbing labor unions; 'free trade' policies that would pry open foreign markets; and wherever possible the replacement of public programs with private markets" (Piven, 2007).

Precarious work - "Although a precarious job can have many faces, it is usually defined by uncertainty as to the duration of employment, multiple possible employers or a disguised or ambiguous employment relationship, a lack of access to social protection and benefits usually associated with employment, low pay, and substantial legal and practical obstacles to joining a trade union and bargaining collectively" (Ana Jeannet, 2011).

Right-to-work (RTW) laws - "Laws at the state level that make it illegal for a group of unionized workers to negotiate a contract that requires each employee who benefits from the contract terms to pay his or her share of the costs of negotiating and policing the contract. By making it harder for workers' organizations to sustain themselves financially, RTW laws seek to undermine unions' bargaining strength" (Lafer, 2011).

Chapter 2: Literature Review

What is Contingent Work?

There is currently no standard definition of contingent work ("Contingent Employment," 1991). Although classification schemes for contingent work have been proposed for the purposes of research, there is no agreed upon schema among researchers (Facey, 2011). As a result, the conceptions of contingent work that are used in research vary, depending on the viewpoint of the particular researcher (Facey, 2011). Furthermore, estimates of the size, composition and role of contingent work vary because of a lack of a standard definition ("Contingent Employment," 1991). See Table 1 for a snapshot of various definitions, estimates and percentages of the contingent labor force in the US.

The term “contingent work arrangements” was coined by Audrey Freedman in 1985 to describe “conditional and transitory arrangements as initiated by a need for labor—usually because a company has an increased demand for a particular service or a product or technology, at a particular place, at a particular time” (Hippie, 2001). Polivka & Nardone in their paper titled “On the Definition of Contingent Work” define contingent work as “any job in which an individual does not have an explicit or implicit contract for long-term employment or one in which the minimum hours worked can vary in a nonsystematic manner” (A. E. Polivka & Nardone, 1989). Others define it more practically as workers who (1) lack job security, (2) have unpredictable work hours and (3) lack access to benefits typical of traditional work arrangements (Liu & Kolenda, 2012). The Government Accountability Office (GAO) defines the contingent workforce as “workers who do not have standard full-time employment, that is, are not wage and salary workers and working at least 35 hours a week in permanent jobs” ("Employment Arrangements, 2006,"). Catherine Ruckelshaus, the legal co-director of the National

Employment Law Project (NELP) considers everyone who is not a W-2 employee, including people paid on 1099s, franchisees, and people paid in cash, such as construction day laborers, as contingent workers (Wishnia, 2012).

At last count in 2005 the Government Accountability Office (GAO) reported that 42.6 million US workers (about 30%) were considered contingent ("Employment Arrangements, 2006,"). In 1995 the GAO estimated that 32 million people were contingent workers. The GAO defines contingent work arrangements for this estimate broadly as "work arrangements that are not long-term, year-round, full-time employment with a single employer." The GAO categorizes contingent work into 8 categories including agency temporary workers (temps) 3%, contract company workers 2%, day laborers/on-call workers 6%, direct-hire temps 7%, independent contractors 24%, self-employed workers 14% and standard part-time workers 43% ("Employment Arrangements, 2006,").

The Current Population Survey (CPS) defined contingent workers as individuals who do not have an explicit or implicit contract for ongoing employment (A. Polivka, 1996). The CPS offers three different estimates for the size of the contingent workforce in the US ranging from 2.7 million to 6 million people. The low estimate was restricted to wage and salary workers who expected their jobs to last for an additional year or less and who had worked at their jobs for one year or less, while the higher estimate included all workers who did not expect their jobs to last (A. Polivka, 1996). Based on the 1999 Contingent Work Supplement (CWS) of the CPS, a study by Hippie found that the five industries with the largest share of contingent workers were private household services (16.8%), educational services (11.6%), business, auto and repair services (7.5%), social services (7.3%) and personal services (6.2%) (Hippie, 2001).

Contingent workers are found in almost every industry, but are much more likely to be concentrated in the services industry. In a report based on data from the 1995 Current Population Survey (CPS), over 53% of contingent workers were employed in the services industry compared to just 34.5% of non-contingent workers. Within the services industry the sectors that made up the largest percentages were business services at 10.7% and educational services at 21.5% (A. Polivka, 1996).

Contingent Jobs and their Relation to the Social Determinants of Health (SDH)

The GAO found that 13% of contingent workers received healthcare benefits from their employer compared to 72% of standard full time workers ("Employment Arrangements, 2006,"). Overall, 73% of contingent workers received health insurance from any source (Medicaid, spouse etc.) compared to 87% of standard full time workers ("Employment Arrangements, 2006,").

Employment quality, income and working conditions, all of which influence socioeconomic position, have a powerful effect on health equity and well-being (CSDH, 2008) (Table 1). The traditional indicators of socioeconomic position (SEP) at the individual level are income, education and occupation (Adler & Ostrove, 1999). Socioeconomic health differences consist of general measures of health including life expectancy, all-cause mortality and self-rated health to name a few (Solar O, 2007). Differences correlated with SEP are found for mortality and morbidity outcomes for almost every disease and condition (Antonovsky, 1967). Socioeconomic health inequities exist in specific causes of disease and premature death including lung cancer, coronary heart disease, accidents and suicide (Solar O, 2007). Low birth weight provides a striking example of socioeconomic inequalities and disparate health outcomes.

Low birth weight is an important measure of child health and carries the risk of impaired development throughout childhood including intellectual development (Graham, 2005). There are significant differences in national rates of low birth weight among countries like the US and the UK which have higher proportions of households living in poverty than countries like Sweden, Norway and the Netherlands. Low birth weights are at their lowest rates in the Nordic countries and at their highest in relatively high-poverty countries like the US and the UK (Solar O, 2007).

Income is a measure of socioeconomic position. Income has a “dose-response” association with health in that it can influence the purchase of material goods that have direct implications for health (Solar O, 2007). A 2010 study found that living at less than 200% of the federal poverty level showed the greatest impact on health when compared to other indicators such as having a body mass index above 30, being a current smoker or having less than 12 years of education. Living at less than 200% of the poverty level resulted in a loss of 8.2 Quality Adjusted Life Years (QALY’s) per person exposed (Muennig, Fiscella, Tancredi, & Franks, 2010).

On average contingent workers have lower family incomes than non-contingent workers ("Contingent Workers," 2000). According to the GAO, 7.7% of standard full time workers had family incomes below \$15,000 compared to 29.8% of agency temps and 8.5% of contract company workers ("Contingent Workers," 2000).

Contingent and outsourced jobs come with a significant wage penalty. A study from 2004 found that construction workers employed by temporary agencies made 49.5% less than their in-house counterparts; temporary assemblers and fabricators made 49.2% less and all other production workers supplied by temporary agencies suffered a 39.4% wage penalty (Eunice Cho,

2012). The National Employment Law Project (NELP) reports that the trend to outsourcing has resulted in comparatively lower wages for work similar to the jobs previously performed “in-house” (Eunice Cho, 2012).

In a study in Finland that followed a cohort of 1082 contingent workers and 2357 permanent workers the type of employment was related to myriad social determinants. For example, contingent workers were characterized by the perception of high job insecurity in both men 56% vs 4% and women 62% vs 5% compared to permanent workers. They also had lower household income compared to permanent workers. The proportion of low income earners compared to those permanently employed was higher among contingent men 18% vs. 6% and women 14% vs 4%. Contingent men were at a disadvantage regarding many indices compared to their permanently employed counterparts. They tended to have lower socioeconomic status, to be less educated, to be less frequently married and to have fewer children (Sirvio et al., 2012).

Only about one in five contingent workers have pension plans compared to approximately one in two of their non-contingent counterparts ("Contingent Arrangements ").

Contingent Jobs and Workforce Health

The relationship between contingent work and health is not well understood because the existing research is generally inconsistent or inconclusive (Facey, 2011). Contingent workers are much less likely to have employer provided health insurance with only 18% receiving it relative to 52% of non-contingent workers ("Contingent Arrangements ").

There is a growing body of research by the Occupational Health and Safety (OHS) about the effects of job insecurity and contingent work arrangements (Quinlan & Bohle, 2009). A review by Quinlan and Bohle of 86 individuals recently experiencing downsizing and job

insecurity found that 73 (85%) of these individuals showed worse OHS outcomes (Quinlan & Bohle, 2009). The authors noted that “the OHS effects of downsizing and job insecurity need to be viewed within a broader debate about the global health impacts of precarious employment” (Quinlan & Bohle, 2009).

In a 2003 longitudinal study of the associations between temporary employment and mortality, researchers found that mortality was 1.2-1.6 times higher among men and women relative to their permanently employed counter parts (CSDH, 2008) (Kivimaki et al., 2003).

Stress and Contingent work

Literature that examines health outcomes among contingent workers often highlights the psychological morbidity related to job insecurity. A review of 27 studies of temporary employment and health outcomes suggested higher psychological morbidity amongst temporary employees (Virtanen et al., 2005). Some of the studies also indicated that OHS outcomes were worse amongst the temporary workers while their absence rates were lower (Virtanen et al., 2005).

Research by Ferrie found that every published study on perceived job insecurity has consistent negative impacts on psychological morbidity (Ferrie, 2001). The robustness of this data was reinforced by evidence of a dose response relationship in two cross-sectional studies (Ferrie, 2001).

Research has begun to examine various health indicators and their potential relation to job insecurity including drug and alcohol use, but current data is inconclusive (Quinlan & Bohle, 2009). There has been little research on the timing and predictability of work shifts and its relation to health and well-being. Research on job insecurity has been dominated by

quantitative research (Quinlan & Bohle, 2009). A lack of qualitative data from those impacted by job insecurity makes it difficult to understand the “how” and “why” of the issue (Quinlan & Bohle, 2009).

In a review of 72 studies around contingent work and job satisfaction it was found that compared with permanent workers, contingent workers experience lower job satisfaction (Wilkin, 2013).

Example(s) of Contingent Workers and the Affordable Care Act (ACA)

Walmart is an example of a company that is shifting towards a more contingent workforce. Walmart is the largest private employer in the US with around 1.3 million associates in over 4,000 stores (Matthews, 2012). In a recent survey of 52 Walmart stores it was found that 27 were hiring only temporary workers and 20 others were hiring a combination of full time, part time and temporary workers ("Wal-Mart," 2013a). Temporary workers at Walmart are often hired on a 180 day contract at which time they may be hired on full or part time, or they may have to reapply for another temporary position.

The company surveyed about 200,000 Walmart associates in 2007 and found that about 47% had health coverage from Walmart's plan (Mui & Joyce, 2007). About 90% had some form of health insurance including 22% of employees receiving health care through a spouse's plan, 5% from Medicare and about 4% through their parents (Mui & Joyce, 2007).

Hiring more temporary workers is one strategy that employers can use to mitigate the potential rise in healthcare costs due to the Affordable Care Act (ACA). Under ACA reforms companies must offer healthcare to 95% of employees who work more than 30 hours a week or pay a penalty of \$2,000 per worker for the entire workforce. However, if the work hours are so

variable that it is uncertain whether a worker qualifies, the company can determine eligibility by measuring the hours over a 12 month period. For temporary workers it may be difficult to reach the 12 month threshold ("Wal-Mart," 2013a).

Demographics of Contingent Workers

Contingent jobs are disproportionately held by women and people of color. Women constitute 50% of the contingent labor force compared to 46% of the non-contingent workforce, while blacks make up 14% of the contingent workforce compared to 10% of the non-contingent workforce (A. Polivka, 1996). The higher proportion of women in contingent jobs may be attributed to the fact that women are disproportionately employed in the industries that use more contingent workers overall. For example, the services industry, which has a higher rate of contingent jobs, employs 48% of all working women compared to just 24.8% of all working men. The rates of contingency in the service industry were almost identical, 7.5% for men and 7.4% for women. For blacks however, the situation is different with blacks having higher rates of contingency than whites in industries with higher proportions of contingent workers. For example in the construction industry 17.4% of blacks were contingent compared to 7.4% of whites and in retail 5.1% were black which doubled the rates for whites (A. Polivka, 1996). This suggests that blacks have higher rates of contingency not because of their employment distribution amongst various industries but because of labor market factors within industries (A. Polivka, 1996).

Latino workers are over represented among contingent workers. Relative to any ethnic/racial group, Latinos have the highest rate of participation in the contingent labor force. In 2005 the Bureau of Labor Statistics (BLS) found that 21% of contingent workers were Latino.

They are also at the lowest end of the economic ladder with 2 out of 5 Latino workers unable to keep their families out of poverty (Eunice Cho, 2012).

The number of African American workers in the temporary work force is double that of the whole work force while two out of every three temporary workers are women (Schroeder, 1995). Women are also more likely to be in part-time work when they would rather hold a fulltime position. Involuntary part time work for women is 44% higher than that of men (Schroeder, 1995). Because of the lack of childcare it often makes breaking out of this employment cycle much harder for women. The Women's Bureau of the US DoL estimates that up to 25% of women are denied protections under the National Labor Relations Act because of their temporary or part-time status (Schroeder, 1995).

Trends in Contingent Work

Over the past 30 years the almost global acceptance of neoliberal economic reforms that seek to privatize government services, deregulate markets, break up unions and remove government protections has increased the amount of contingent, precarious and or unpredictable work (Sirvio et al., 2012). In the US, the deindustrialization from a manufacturing based economy to a service based economy has expanded the demand for flexible labor (Liu & Kolenda, 2012).

More traditional middle class jobs are declining in the US and are being disproportionately replaced by contingent, low wage jobs (Zappe, 2013). Sarah Raskin, a governor of the Federal Reserve stated that low-wage jobs constituted just one out of five of the job losses while moderate wage jobs represented two out of three of the job losses during the recession. The recovery however, has looked quite different with low-wage jobs making up

more than one half of the job gains. Temporary jobs represented just 10% of the jobs lost during the recession but constituted more than 25% of the employment gains since the recovery (Zappe, 2013).

Some estimates of the temporary help industry from 1982 to 1990 indicate the industry grew 10 times faster than the workforce as a whole (Schroeder, 1995). Sociologist Richard Greenwald estimates the share of contingent workers has increased by almost 50% in the last 10 years (Wishnia, 2012). The GAO found that the contingent work force had increased by 3 million workers from 1995 to 2005, however the proportion of contingent workers had remained fairly constant at 31% ("Employment Arrangements, 2006,"). Using unpublished data from Economic Co-operation and Development (OECD), Quinlan, Mayhew and Bohle found that on average, temporary work across 15 countries grew from 9.6% of all employment in 1983 to 14% in 1999, a 44% increase (Quinlan, Mayhew, & Bohle, 2001). This trend is reflected in the "temporary help services industry," where the workforce increased by 43% between 1989 and 1994 (Facey, 2011). From 1995 to 2001 the number of temporary help agencies rose by almost 50% (Facey, 2011). Globally it is estimated that 25 to 30% of the world's workers (750 to 900 million people) are underemployed which means either working less than fulltime, but wanting to work longer, or earning less than a living wage (Benach, Benavides, Platt, Diez-Roux, & Muntaner, 2000).

Contingent Work in Georgia

Georgia is a rapidly growing state in population and employment. From 1990 to 2000 Georgia's population grew over 26%, the sixth fastest growing state in the nation. During that same time period Georgia's job growth rate was 32.5% compared to the national average of

19.6%. From 2000-2007 Georgia's job growth was 14% compared to 8.8% nationally (Liu & Kolenda, 2012). Over this time period (1990-2007) Georgia lost over 13% of its manufacturing jobs while retail and health care services rose to the top two industrial sectors (Liu & Kolenda, 2012). Researchers at Georgia State University estimated that almost half of all of the workers in the state (2,303,719) were contingent (Liu & Kolenda, 2012).

Contracted School Workers at Emory University

Emory University uses a food services contractor called Sodexo to manage their food outlets on campus. Sodexo employs approximately 337 hourly food service workers on Emory University's main campus ("Committee on Class and Labor Report and Recommendations," 2013). The racial breakdown of the 337 Sodexo employees is as follows: 82% (276) are African American, 10.4% (35) are white, and 3% (10) are Hispanic. Approximately 61% (206) of hourly Sodexo workers on Emory's campus are female. The current average rate of pay is \$14.89 per hour although this average includes managers. Approximately 49% of Sodexo workers at Emory are enrolled in the healthcare benefit plan offered by the company. Almost 70% (262) of Sodexo employees are considered full time. Sodexo considers anyone who works 30 hours a week to be full time ("Committee on Class and Labor Report and Recommendations," 2013). The following quote explains Sodexo's handling of school breaks, "Prospective employees are informed when they apply that our business cycle includes periods of time when they may be laid off; semester breaks and summer."

Georgia Department of Labor information

In Georgia, weekly unemployment payments to laid off workers range from \$44 to \$330

and average \$258 (D. Chapman, 2011). The GA unemployment trust fund, the fund that is used to pay out unemployment benefits, is funded by employers and borrowed federal money. From 2000 - 2003 the Georgia General Assembly granted a “Tax Holiday” for Georgia businesses, absolving most employers from having to pay the tax (D. Chapman, 2011). This Tax Holiday was granted during a fleeting period of low-unemployment. The unemployment trust fund dropped from \$2 billion to \$703 million in early 2003. The Great Recession hit Georgia hard and by 2009 the unemployment trust fund was depleted, spurring GA to ask for a \$721 million dollar loan from the federal government.

Georgia Budget and Policy Institute (GBPI) states: “About one-third of Georgia businesses pay only \$2.55 per year per employee into the unemployment trust fund. Currently, employers are taxed only on a worker’s first \$8,500 of annual income; GBPI says that amount should at least be doubled” (D. Chapman, 2011).

Georgia’s unemployment payout period is among the two shortest in the nation; Florida is the other. A new sliding scale of 14 to 20 weeks of unemployment, down from 26 weeks was implemented in July 2012. The new sliding scale will be based on the state’s unemployment rate (Quinn & Christopher, 2012). Employers pay unemployment taxes based on a limited amount of income, in Georgia that was set at \$8500, however the recent change has increased that to \$9,500. This is the first increase in 21 years, however, this still puts Georgia at \$3,000 less than the national average (Quinn & Christopher, 2012).

Grass Roots Organizing for Health

In a 2010 discussion paper titled “A Conceptual Framework for Action on the Social Determinants of Health”, authors Solar and Irwin state that health inequities flow from social

stratification, which is rooted in unequal distributions of power. Therefore, “any serious effort to reduce health inequities will involve changing the distribution of power within society to the benefit of disadvantaged groups” (Solar O, 2007). “Changes in power relationships can take place at the “micro-level” such as individual households or at the “macro-sphere” of structural relationships among social constituencies mediated by economic, social and political institutions” (Solar O, 2007). “Action on the social determinants of health inequities is a political process that engages both the agency of the disadvantaged communities and the responsibilities of the state” (Solar O, 2007).

Contingent Workers Excluded from Labor Protections and the Right to Organize

The Framework for labor law in the United States is far behind the realities of the rapidly shifting economy. The current framework for labor law was won in the 1930’s and 1940’s (Smith R, 2010). These laws were generated during the rise of mass industrial production in the US; workers were predominately white and male and laws explicitly excluded many other types of workers from protections including farm and domestic workers who were mainly people of color (Smith R, 2010). Because of the massive growth in part-time, temporary jobs and the lack of benefits provided, laws and protections have to be adapted to address the shifting nature of work (Schroeder, 1995).

The socioeconomic-political context encompasses a broad set of structural, cultural and functional aspects of a community or social system. Its impact on individuals may be difficult to quantify, yet it exerts a strong influence on social stratification and in-turn, people’s health opportunities. Despite its relevance to socioeconomic stratification, there has been relatively little attention given to issues of political context in the health determinant literature (Solar O,

2007). The quality of SDH is molded by policies that guide the distribution of material resources amongst constituents.

Chapter 3: Methodology

Introduction

The Justice for School Workers campaign led by Atlanta Jobs with Justice Atlanta JwJ) was a dynamic, grueling and informative experience. . Atlanta JwJ, like many worker rights' organizations in the South, is under constant pressure to build and support campaigns for economic and social justice while raising funds to sustain and grow. Allowing time for recording, reflection and critical analysis of the organization's work is challenging to prioritize in the midst of daily pressures.

This case study is an opportunity for Atlanta JwJ's work to be recorded from multiple perspectives and analyzed to understand how the organization functioned amidst an intense campaign. This Special Studies Project helps to situate the work of Atlanta JwJ within a public health framework through the Social Determinants of Health and places the struggles in GA within the broader context of the US economy and its rapidly shifting employment structures.

Population and Sample

The population includes all contracted educational service workers who were affected by the GA Labor Commissioner's "rule change" in 2012 that barred unemployment benefits to contracted educational service workers in Georgia. The Atlanta Journal Constitution (AJC) found that 64,702 Georgia workers were classified as private "educational service" workers using data from the Bureau of Labor Statistics (N. B. Chapman & Dan, 2012). They noted however that, "labor departments don't track employment by occupation, making it impossible to determine how many workers got seasonal benefits" (Badertscher, 2012). The Georgia DoL claimed that just over 4,000 school workers had applied for the benefits throughout 2012-2013

and were officially denied (D. Chapman). It is likely that the unemployment benefits denials affected more than 4,000 school workers because some laid off school workers did not apply for unemployment benefits after hearing that they would be denied anyway.

Sectors of known impacted school workers included contracted food service workers at both public and private universities and at public K-12 schools, contracted school bus drivers at universities and public K-12 schools, crossing guards, pre-k teachers funded by the GA lottery and some private school teachers.

Five union organizations that had members affected by the unemployment benefits cuts include the United Food and Commercial Workers (UFCW) Local 1996, Teamsters Local 728, Workers United-Service Employees International Union (SEIU), Association of Federal State County and Municipal Employees (AFSCME) Local 1644 and SEIU / National Association of Government Employees (NAGE). It should be noted that the overwhelming majority of school workers impacted by the unemployment benefits cuts were not represented by unions.

Atlanta Jobs with Justice (JwJ) was the central organization that connected with the unorganized workers throughout Georgia who had been impacted by the crisis. Atlanta JwJ had existing relationships and contacts with Atlanta food service workers who were not members of unions that served as a starting point for involvement with the workers , but Atlanta JwJ quickly began to build relationships with affected workers outside of Atlanta who contacted the Atlanta JwJ office looking for help.

Research Design

This project took a case study approach to understand how the Justice for School Workers campaign unfolded and why it was successful. Case study research has a long history

in the social sciences (Stake, 1995). Case study research methods seek to understand a specific case in great detail and often from multiple perspectives. Qualitative case study approaches are particularly well-suited to understanding the “how” and “why” behind outcomes of interest. Stake notes that some cases are intrinsically interesting in terms of both particularities and ordinariness (Michelle Mindlin, 2009).

This case study relied on various types of data including qualitative, direct observation and participation in events, key documents and media coverage. The data and perspectives were triangulated when possible in order to help validate the information.

Qualitative Data

Qualitative data were collected from school workers across the state of Georgia, particularly from Atlanta, Savannah, Columbus, Griffin and Lithia Springs during public events and forums as well as one on one interviews and conversations.

One source of qualitative data was gathered during a public event in the fall of 2012 called the “People’s Court: Georgia Labor Commissioner Mark Butler on Trial.” At this event twenty school workers gave testimony about how the cuts to unemployment benefits had affected their lives. After hearing the stories of the school workers, a panel of nine community leaders, faith leaders and politicians responded to the stories and offered their reflections and recommendations on how to resolve the issue. Both audio and video of the event were recorded and later transcribed.

Notes from phone conversations with over one hundred school workers were recorded and used to inform the overall descriptive analysis of the case study. These conversations took place when school workers called the Atlanta JwJ office seeking information about the

unemployment benefits situation. Some had seen the name “Atlanta Jobs with Justice” in the newspaper or on television in relation to this issue, while others had used internet search engines to find out more about the situation and then became aware of Atlanta JwJ.

Documentation

Open records requests were initiated to retrieve eight letters sent among the US DoL, the Georgia DoL and the Georgia governor regarding the unemployment benefits denials. These letters were sent from May 30, 2012 to April 2, 2013. Some of these letters contained dense legal terminology and references to specific rules about state and federal regulations around unemployment insurance. The National Employment Law Project (NELP) provided interpretation of the legal arguments in the letters being made by the Georgia DoL and the US DoL. NELP also provided written insight regarding the leverage and/or legitimacy of the arguments being made by each institution that were used to develop the descriptive analysis.

A letter sent from Congressman John Lewis to the GA Labor Commissioner and to the Georgia Attorney General was retrieved and used to inform the overall descriptive analysis.

Print media coverage about the unemployment benefits cuts in Georgia was compiled and analyzed to understand the framing of the issue and the chronology of events related to the issue. Media coverage included a series of six articles in the Atlanta Journal Constitution (Atlanta’s paper of record) that were published from June 30, 2012 to April 4, 2013. Print media was examined from Augusta and Savannah to understand how the issue was being portrayed outside of Atlanta and to understand how different sectors of workers responded to the crisis.

There were two legislative bills involving the unemployment benefits cuts to school

workers that were introduced during the 2013 legislative session (SB227 and HB361). Copies of the bills were retrieved from the state capitol of Georgia and analyzed for their content.

The use of social media was increased during the legislative session by organizations such as Atlanta Jobs with Justice in efforts to stop these bills. A sampling of the mediums and content of the social media was analyzed.

Direct Observation

The author of this special studies project was the staff organizer for Atlanta Jobs with Justice during the Justice for School Workers campaign. The author organized, attended, and participated in many of the events, meetings and communications involved in the campaign.

Below is a list of events that the author participated in that were part of the Justice for School Workers campaign. These experiences were recorded with photos, notes and video and were used to help develop the descriptive analysis of the case study. More details about each event are included in the Results section.

Events that the author of this study participated in:

- The “Summer Incomes for Everyone Rally” held at the Georgia DoL 6.1.2012
- Strategy meeting with Atlanta food service workers from 5 college campuses 7.5.2013
- Sit-in at the local DoL office on MLK Jr. Drive 7.17.12
- Workers’ Rights Board Hearing (GA Labor Commissioner on Trial), testimony given from impacted school workers 8.18.2012
- Collective letter delivery and rally at the US DoL regional headquarters 12.21.2012
- Days spent at the Georgia legislature following and lobbying SB227 and HB361 from 3.30.13 to 3.27.13

- Public forum at Morehouse college. Food service workers, a Morehouse professor and AUC students shared perspectives 4.4.2013
- March to Defend Unemployment benefits from the AUC campuses to the US DoL in downtown Atlanta on 4.20.2013

Institutional Review Board (IRB) Consideration

Information about this project was submitted to the Emory IRB for review. The Emory IRB determined that this project did not require IRB review because it did not meet the definition(s) of “research” involving “human subjects” as set forth in Emory policies and procedures and federal rules, if applicable (Appendix 1).

Limitations and delimitations

The investigator was an active participant in the events described in this case study supporting the interests of Georgia school workers.

Chapter 4: Results

Summary of Unemployment Benefits Situation

In the spring of 2012 a public health crisis erupted for thousands of contracted Georgia school workers including food service workers, school bus drivers, crossing guards, Georgia lottery funded pre-k teachers and some private school teachers. For the past 30 years, contracted school workers were able to draw unemployment benefits while being laid off by their respective employers during periods of school breaks (Appendix 1). In early 2012, the Georgia Labor Commissioner cut off unemployment benefits to contracted Georgia school workers who were left unexpectedly with no income over the summer and other school breaks. The Georgia Labor Commissioner argued that public school teachers were not eligible for unemployment benefits over the summer and therefore it was unfair for contracted workers to receive them. The cuts to unemployment benefits took place amidst a \$700 million dollar debt in the unemployment trust fund.¹

¹ The GA unemployment trust fund is funded by employers and borrowed federal money. From 2000 - 2003 the Georgia General Assembly granted a “Tax Holiday” for Georgia businesses, absolving most employers from having to pay the tax. (D. Chapman, 2011) This Tax Holiday was granted during a fleeting period of low-unemployment. The unemployment trust fund went from \$2 billion to \$703 million in early 2003. The Great Recession hit Georgia hard and by 2009 the unemployment trust fund was depleted, spurring GA to ask for a \$721 million dollar loan from the federal government. This has been the backdrop of the GA Labor Commissioner’s efforts to reduce the unemployment benefits roles in GA.

Monthly Justice for School Workers Campaign Timeline
April 2012 to April 2013

April 2012

- First awareness among worker organizations regarding the potential unemployment benefits denials to contracted Georgia (GA) school workers.

May 2012

- First media coverage of issue as a result of a public demonstration organized by Teamster school bus drivers at a local Department of Labor (DoL) office in Savannah, GA.
- Online petition calling for the Georgia Labor Commissioner Mark Butler to reverse his decision started by Atlanta Jobs with Justice (JwJ).

June 2012

- Rally at main Atlanta DoL location. Diverse representation from organizations, students, school workers and community members. Numerous television media stories about issue.
- Augusta, GA crossing guards organize mobilization event at local DoL office, in-part inspired by the Savannah, GA bus drivers. Media coverage in Augusta.
- Atlanta JwJ establishes contact with impacted workers in Columbus, Griffin, Norcross, Savannah and Marietta, GA.

July 2012

- Atlanta Journal Constitution (AJC) covers issue: Estimates 64,702 Georgians as private educational service workers who may be affected by denials.
- Large strategy meeting with impacted food service workers from 5 campuses in Atlanta, collective goals established and voted on.
- Sit-in at local Atlanta DoL office led by Columbus, GA school bus drivers, along with food service workers from Atlanta based campuses.
- In-person meeting in Washington, DC with US DoL representatives, Spelman College food service worker and Teamster bus driver from Savannah, GA.

August 2012

- Letter from US DoL to GA Labor Commissioner states that denials are not in compliance with state and federal Unemployment Insurance guidelines. Warns that federal funding to the GA DoL could be effected if issue is not corrected.
- Large forum hosted by Atlanta JwJ. Includes testimony from 20 impacted Georgia school workers and responses from influential community leaders. US DoL letter announced at event.
- GA school workers return to work as school year begins.

September 2012

- Congressmen John Lewis sends letter to GA Labor Commissioner and GA Attorney General urging the reinstatement of the unemployment benefits.

October 2012

- Atlanta JwJ postpones event at the US DoL's regional offices in Atlanta at the request of the US DoL.

November 2012

- Two Columbus, GA bus drivers who began a union organizing drive as a result of the unemployment benefits cuts were fired for their efforts.

December 2012

- Action at US DoL's regional headquarters to push for follow-up on their initial letter. Ninety hand written letters from Teamster Savannah bus drivers and Atlanta food service workers delivered. Media coverage highlights US DoL's lack of action.
- GA school workers laid off with no unemployment benefits over winter break.

January 2013

- Letter sent from US DoL to GA Governor Nathan Deal, informing him that federal action may be taken if the GA Labor Commissioner does not reinstate benefits.

February 2013

- Coordinated student letter delegation to university presidents on 6 Atlanta campuses urging them to take a stance on the issue.
- Senate Bill (SB) 227 introduced that would legalize the GA Labor Commissioner unemployment benefits cuts to contracted GA school workers. Atlanta JwJ organizes on-

line campaign to pressure key senators and labor movement begins lobbying.

March 2013

- SB227 fails to cross over to the House of Representatives.
- SB227 resurrected and attached to HB361 in an attempt to combine two anti-worker bills. Hundreds of e-mails sent to GA senators, phone calls targeting GA senators and GA Lt. Governor.
- HB361 passes Senate.
- Key unemployment benefit portion of HB361 fails to pass House, opens space for US DoL to act.

April 2013

- US DoL informs GA Labor commissioner that they may commence proceedings that could lead to cutting off federal UI grants to Georgia DoL programs.
- GA Labor Commissioner announces through AJC article he will pay \$8 million back to 4,000 GA school workers and reinstate the benefits moving forward.
- Public forum held at Morehouse led by students. Food service workers and students share their stories. Victory is announced.
- “March to Defend Unemployment Benefits” from AUC campuses to US DoL office in Atlanta with broad statewide participation from diverse constituencies.

Descriptive Analysis of the Justice for School Workers Campaign

Reinterpretation of Georgia Unemployment Insurance Rules

The decision by the state’s elected Labor Commissioner Mark Butler changed over 30 years of past practice (Appendix 2). The Labor Commissioner had “re-interpreted” Unemployment Insurance (UI) rules to extend the “between and within terms denial rules” that had historically applied only to public and non-profit educational institutions to also include private employers that contracted with educational institutions (Appendix 2). For example,

public school teachers in Georgia were historically not able to draw unemployment benefits during periods of school breaks while food service workers employed by a private company at Georgia schools were eligible to draw unemployment benefits during school breaks. By extending the interpretation to include “workers employed by private companies under contract with educational institutions” the Labor Commissioner had effectively cut off four thousand school workers from unemployment benefits for which they had previously been eligible (D. Chapman, 2013).

Little Warning to Workers

The change in benefits came with little warning to school workers, many of whom were living paycheck-to-paycheck. Some school workers received documentation from their employer in April 2012 indicating that they may be denied their unemployment benefits but were encouraged to apply for the benefits anyway (Appendix 3). The documents indicated that employers were not clear on who would be denied benefits. Other school workers were unaware of the changes until their first unemployment denial letter came in the mail partway through the summer.

A Georgia pre-k teacher describes her reaction to her denial letter:

“We had no idea about the new law. Our employer told us nothing and the only thing we’d heard in the news was that bus drivers and cafeteria workers were no longer getting the benefit. So, I’ve been being very patient like the instructor of my unemployment class advised. Then, here comes the denial letter explaining that since I am guaranteed work in August, I don’t qualify

for the benefit.”

As summer layoffs began throughout April and May 2012, unemployment benefit denial letters began to arrive to school workers and word started to spread quickly.

How Did the Rule Change Occur?

Although most contracted school workers were not aware of these changes until the spring or summer of 2012, the process began well before then. On December 9, 2011 there was a public hearing held at the Georgia DoL in order to receive public input about the proposed unemployment benefits rule change. Notification of the public hearing was put up on the Georgia DoL's website and was also included in the November 9, 2011 edition of the Atlanta Journal Constitution (Appendix 4). Only a small number of those who would be impacted by the rule change attended the meeting: administrators for private, Georgia lottery funded Pre-k institutions. There were no contracted school workers nor representatives from large employers such as food service or transportation contractors, universities, public schools or private schools in attendance at the hearing. It is difficult to know exactly why attendance at the public meeting was not representative. One explanation may be that most school workers were unaware of the meeting because of the way in which it was advertised – it is unlikely that school workers regularly check the Georgia DoL's website and the notification provided in the AJC was unclear of the implications of the rule change. And for school workers who live outside of Atlanta both notification and transportation may have been issues. All of the pre-k administrators in attendance spoke in favor of the GA Labor Commissioner's rule change. One speaker looked back to the audience while she spoke and asked those in favor of the rule change to raise their

hands to demonstrate the amount of support. Twelve hands rose. They stated that their unemployment insurance rates to the state went up as a result of high rates of their employees filing unemployment benefits claims over school breaks. The administrators stated that their employees signed up for ten month contracts and had a “reasonable assurance” that they would be employed the next fall. Some felt that their pre-k institutions could go out of business if they had to continue paying high unemployment insurance rates.

Notification to Organizations and Decision to Take on Issue

The first notification to worker organizations about the possibility of the denials appeared on an e-mail list for a student/labor organization at Emory University called Students and Workers in Solidarity (SWS) on April 9, 2012. A food service worker on Emory University’s campus employed by a contracted food-service company, Sodexo, scanned a letter from their employer and sent it to the e-mail list noting, “if people get laid off in May I do not know how they expect people to live.” Emory University students took notice of the urgency of the situation and then contacted a labor/community coalition called Atlanta Jobs with Justice (JwJ).

Description of Atlanta Jobs with Justice

Atlanta Jobs with Justice – Atlanta Jobs with Justice (Atlanta JwJ) is a coalition of labor unions, community groups, faith based organizations, student organizations and individuals that leads and supports campaigns around economic and social justice (Sardana). Atlanta JwJ has one paid staff organizer and various volunteers from its member organizations and community supporters. One representative from each member organization sits on the Atlanta JwJ Organizing Committee which guides the direction of the coalition. Atlanta JwJ is part of a

national network of JwJ coalitions that exist in 45 cities across the US. There are twenty-two member organizations of Atlanta JwJ, five of which are organizations that had members who were affected by the unemployment benefits cuts.

At an Atlanta Jobs with Justice Organizing Committee meeting later in April, the organizing director from Teamsters Local 728, *Ben Speight* noted that bus driver members of their union in Savannah were also worried about the impending unemployment denials. Given the potential broad impact on members of organizations that were part of Atlanta Jobs with Justice, a vote was held by the Atlanta JwJ Organizing Committee to begin working on this issue. It passed unanimously.

Organizations with Members Affected by the Cuts

Atlanta Jobs with Justice and Teamsters Local 728 began to research the issue and reach out to other organizations to better understand the details surrounding the unemployment benefits cuts.

There were five union organizations that had members affected by the cuts including the United Food and Commercial Workers (UFCW) Local 1996, Teamsters Local 728, Workers United-Service Employees International Union (SEIU) Southern Region, Association of Federal State County and Municipal Employees (AFSCME) Local 1644 and SEIU/ National Association of Government Employees (NAGE).

Atlanta Jobs with Justice (JwJ) served to connect with all the workers who were not currently members of any labor organization. JwJ had previously established relationships with unorganized food service workers and from that began to build a basis of support.

Scale of Impact

Early on it was difficult to assess the scale of the issue and to identify which sectors of school workers were affected. This was in part because the Georgia DoL had provided no clear guidelines to the public or to Georgia school workers. Atlanta JwJ submitted open records requests in order to develop a better understanding of how many workers would be denied unemployment benefits. This proved difficult because there was no centralized institution that could provide data on how many workers had been denied unemployment claims as a result of this rule change. The Georgia DoL said that this information was confidential and the Georgia Board of Regents, the centralized governance body for the University System of Georgia did not have information about each school's contractors. Subsequently, Open Records Requests were sent individually to all of the universities across the state of Georgia inquiring about the size of their contracted work force. This documented only a fraction of the workers affected and did not include public K-12 schools, pre-k institutions, or county workers.

The first estimate was reported on June 30, 2012 by Daniel Chapman and Nancy Badertscher in the newspaper of record, the Atlanta Journal Constitution (AJC), in an article titled "Crackdown Reigns in Supplemental Pay." The authors noted that

"Labor departments don't track employment by occupation, making it impossible to determine how many workers got seasonal jobless benefits. But the U.S. Bureau of Labor Statistics labeled 64,702 Georgians as private "educational service" workers last September, a category that includes teachers, assistants and other educators employed by private companies on contracts for public schools and universities. Thousands of other

contractually employed Georgians drove buses, cleaned toilets or served meatloaf at schools across the state” (N. B. Chapman & Dan, 2012).

The 64,702 number was maintained throughout the campaign. Later, the Georgia DoL reported that just over 4,000 school workers had applied for the benefits throughout 2012-2013 and were officially denied. Because some laid-off school workers did not apply for unemployment benefits after hearing that they would be denied, it is reasonable to assume that more than 4,000 school workers were actually affected.

Sectors of school workers who were known to lose their benefits included: contracted food service workers at both public and private universities, contracted food service workers in public K-12 schools, contracted school bus drivers at universities and public K-12 schools, crossing guards, pre-k teachers funded by the GA lottery and some private school teachers.

History and Importance of Existing Relationships with Food Service Workers

Atlanta Jobs with Justice was able to effectively engage a base of food service workers in Atlanta largely because of previous relationships built with Atlanta food service workers during a previous campaign. From 2010 – 2011 a campaign took place to pressure multi-national service contractor Sodexo into a “majority sign-up”² agreement with the Service Employees International (SEIU) union. The campaign was spearheaded by the SEIU in collaboration with United Students Against Sweatshops (USAS).

USAS is a national student organization founded in 1997 with chapters on over 150 university campuses. USAS leverages students’ power within their own university to influence

² Union organizing process where employer agrees to recognize the union if a majority of the employees demonstrate their desire to form one

institutions, contracts, relationships and policies connected to the university in order to promote workers' rights. USAS organizes with local campus workers for union recognition, improved wages, benefits and working conditions and other workers' rights issues. USAS recognizes that universities are powerful economic hubs in communities, cities and regions that can set the standards for employment policies beyond the walls of the university. Atlanta JwJ has a strong relationship with USAS; three founding members of Atlanta JwJ were members of USAS chapters at University of Michigan, Michigan State University, Valdosta State University and Emory University.

At the time of the Sodexo campaign, the author of this paper was the Southern Regional Organizer for USAS and helped to coordinate student engagement with the campaign on five Atlanta area campuses, all of which contracted with Sodexo for their food service needs. Throughout this two-year campaign relationships were developed between Atlanta area students and Sodexo food service workers. Sodexo workers hosted potlucks and barbeques in their homes and local parks inviting students, union organizers, fellow food service workers and community members. Public forums were held for workers to share their experiences working with Sodexo and to talk about the changes that they wanted to see in their workplace. Public demonstrations and rallies occurred to raise awareness on campuses and to galvanize support for the union. Sodexo workers at Morehouse College went on strike in the fall of 2011 and Atlanta area students were there in support (Diamond, 2010). This organizing ultimately led to a successful union election for Sodexo workers at Morehouse College. On Emory's campus, culminating a contentious two-year escalation campaign, seven students were arrested in an act of civil disobedience advocating for the rights of Sodexo workers (Chokshi, 2011).

The Sodexo campaign did not achieve its national overall goal of a broad majority sign-

up agreement for tens of thousands of Sodexo workers; however, there were other important developments that took place. Student/worker organizations were developed or nourished throughout the country; successful union elections took place on seven college campuses including Morehouse college in Atlanta, five universities decided to end or not renew their contracts with Sodexo and university administrations across the country faced increased scrutiny over their contracting policies. For example, on Emory's campus a "Committee on the Study of Labor and Class" was formed and produced a 227 page report that examined labor and contracting policies ("Committee on Class and Labor Report and Recommendations," 2013).

This two-year struggle helped to build relationships between Sodexo workers and students across the city, SEIU, USAS and other students involved in the campaign. A contact database of over 500 Sodexo workers at Morehouse College, Clark Atlanta University, Emory University, Georgia State University and Georgia Institute of Technology was developed. Many of these workers were directly affected by the unemployment benefits denials. These existing relationships were critical for Atlanta JwJ to be able to organize an effective and unified response amongst impacted school workers who were not part of a union organization.

Public Mobilizations and Spontaneous Actions

Georgia school workers along with worker organizations such as Teamsters Local 728, Georgia AFL-CIO, AFSCME Local 1644, Workers United – SEIU, UFCW Local 1996 and labor/community coalition Atlanta Jobs with Justice (JwJ) began organizing collective non-violent demonstrations across the state at local Department of Labor (DoL) offices in Savannah, Atlanta and Augusta to demand the unemployment benefits and raise public awareness about the issue.

Teamsters Local 728 represents some 7,500 members in Georgia including United Parcel Service (UPS) employees, freight truck drivers and school bus drivers. About 700 members of *Teamsters Local 728* were affected by the benefits cuts, including almost 500 school bus drivers in Savannah (Chatham County) and school bus drivers on Atlanta college campuses such as Kennesaw State University, Georgia State University and Emory University. *Teamsters Local 728* has a history of organizing and in recent years has worked in collaboration with student organizations on college campuses to improve wages, benefits and working conditions of its members.

Teamsters Local 728 has a particularly well-organized group of affected school bus drivers in Chatham County in Savannah. On 5/16/13 about 80 Chatham County bus drivers and *Teamsters Local 728* organizers gathered at the local DoL office to demand their benefits. This public demonstration garnered significant media attention; workers' testimony was captured by media outlets in Savannah. This event and the subsequent media coverage helped to spread the word and inspire other affected school workers to take action.

On 6/28/2013, about thirty crossing guards gathered at the Augusta, GA DoL office in Richmond County to question the denial of their unemployment benefits. (McCord) They brought the letters from their employer (the county Sheriff's office) that instructed them to apply for the benefits as well as letters from the DoL informing them of their denials. This event was particularly salient because it was organized spontaneously by the guards themselves. The crossing guards were ordered off of the DoL premises and most of them moved to the sidewalk. The *Augusta Chronicle* covered this protest and this news coverage is how Atlanta JwJ became aware that the crossing guards in Augusta were organizing.

Susan Smith, a veteran Richmond County crossing guard, played a key role in organizing

her fellow crossing guards in August. Her message to the Augusta Chronicle was simply, “We want answers” about the unemployment benefits situation. Atlanta JwJ reached out to Susan McCord, the reporter who covered the issue for the Augusta Chronicle to provide updates about the situation in Atlanta. Susan Smith then received the office number of Atlanta JwJ from Susan McCord. Susan Smith called the office of Atlanta JwJ and communication was established which led to improved communication and information sharing across the state.

Throughout June 2012 Atlanta JwJ had received dozens of phone calls and e-mails from school workers across the state of GA looking for answers. It was clear from the volume of phone calls and e-mails, the diversity of callers’ job titles and geographic locations, and the frequency of actions that were popping up across the state that school workers were deeply concerned. *Milt Tambor*, long time union organizer, current treasurer of Atlanta JwJ and Chair of the Metro Atlanta Democratic Socialists of America (DSA), suggested holding a meeting with school workers who were not part of any organization to better understand their priorities and to develop a campaign strategy. Outreach for this meeting included robocalls to the contact database of Sodexo workers in Atlanta, text message blasts to a smaller database of affected workers and personal phone calls to school workers who had previously reached out to Atlanta JwJ. Thirty five school workers, representing Aramark at Spelman College, Sodexo at Georgia Tech, Sodexo at Emory University, Sodexo at Clark Atlanta University and Georgia Pre-K teachers with “Smart Kids” attended the meeting on 7/5/13. A number of leaders emerged from that meeting which helped to support Atlanta JwJ’s role of building a base of impacted school workers who were not already affiliated with a union organization.

In early July, Atlanta JwJ received a call from *Olivia Currie*, a school bus driver working at Fort Benning in Columbus, GA. Olivia was outraged about the denial of unemployment

benefits and said that she and her co-workers wanted to do something about it. They were not currently part of a union. A meeting was arranged in Columbus, Georgia which was attended by about seventeen of the Columbus bus drivers, a representative from Atlanta JwJ, the local president of UNITE HERE, a union that represents food service workers at Fort Benning, the Southern Anti-Racist Network (SARN), and the local chapter of the National Association for the Advancement of Colored People (NAACP). At this meeting the bus drivers decided that they wanted to fight against the unemployment benefits cuts, a first step in that process would be to organize a union in their workplace. Olivia Curry and the Columbus bus drivers would later play critical roles throughout the Justice for School Workers campaign.

A public demonstration was held on 7/17/13 at the local Georgia DoL office on MLK Jr. Drive in Atlanta with participation from about 75 Atlanta food service workers, students with the United Auto Workers' Global Organizing Institute, Atlanta JwJ supporters, and a bus load of bus drivers from Columbus, GA wearing red UNITE HERE t-shirts. Atlanta JwJ led the event and participants marched into the DoL office demanding a meeting with the manager of that DoL office. At first, a DoL representative said that a manager would come to address the concerns brought up by the workers. However, after waiting for about fifteen minutes participants began chanting in the lobby of the local DoL office:

“Hey hey, ho ho, Mark Butler has got to go.”

“No ifs, no buts, no unemployment cuts.”

School workers began handing out fliers to other unemployed workers waiting at the DoL office informing them of the situation with Georgia school workers. As the chants continued the DoL

office called the Atlanta Police Department (APD) that arrived at about the same time as a local news reporter. The situation became tense as the police asked participants to leave. *Olivia Currie* told everyone to gather in a circle, hold hands and sit down in the DoL lobby and she began to pray.

“No one understands better than you Father, that these people are hurting. Father God, touch their hearts.... Turn it around Father God, we not gonna stop until this is over. And Father God, touch Mark Butler’s ear”.

The prayer had a calming effect on the situation and the police seemed unsure how to handle it. Most of the school workers were African American women comfortable with collective prayer. For many of the school workers, this was their first time engaging in collective action together; it proved to be an important unifying event in the Justice for School Workers campaign.

Meeting with the US DoL

As a result of the public demonstrations and outreach from organizations such as National Employment Law Project (NELP), national Jobs with Justice and the Teamsters, a meeting was set up between representatives of the US DoL and impacted Georgia school workers on 7/25/12 at the US DoL in Washington, DC. The US DoL wanted to better understand the situation in Georgia and hear from those directly impacted by the unemployment benefits rule change. Notice of the meeting came just a few days before its occurrence so workers had to be chosen quickly and plane tickets secured.

Two school workers, Velmar Hightower and Jerome Irwin attended the meeting in Washington, DC. Velmar, an Aramark food service worker at Spelman College had been at the strategy meeting earlier in the summer and she had brought four of her co-workers to the public demonstration at the Atlanta DoL office. *Jerome Irwin* is a Chatham County school bus driver employed by contractor First Student where he is a shop steward with the Teamsters Local 728. This meeting helped the US DoL understand the details of the situation in Georgia and the urgency of the situation on the ground for Georgia school workers.

An Important Letter to the Georgia Labor Commissioner

Shortly after the in-person meeting with representatives from the US DoL on 8/2/2012, the US DoL sent a letter to the GA Labor Commissioner stating that the rule change that denied unemployment benefits to GA school workers did not comply with federal and state unemployment compensation guidelines (Appendix 2). The letter stated: “please cease administering this regulatory policy change immediately.”

It was only with interpretation from *Rick McHugh* with the National Employment Law Project (NELP)³, however, that participants in the Justice for School Workers campaign understood the full implication of the letter. The letter stated that “as a condition of receipt of grants for the administration of the state law, that the state have methods of administration to insure full payment of unemployment compensation when due” (Appendix 2). This implied that the rule change in Georgia was not insuring full Unemployment Compensation and therefore the

³ (NELP) provided analysis of the legal arguments being made by the Georgia DoL and the US DoL.. NELP helped to educate politicians about the issues and translated legal jargon into common sense language that helped to guide the actions of the Justice for School Workers campaign. NELP has experience working with state and federal DoL offices and was able to offer insight on the pressure points and feasibility of campaign decisions.

state may not be eligible for the federal grants. Rick McHugh informed the Justice for School Workers campaign that these grants amounted to \$62 million dollars in “base funding” for Fiscal Year (FY) 2012, and the same amount was projected for FY 2013. The letter suggested that the US DoL was willing to take a stance on the issue. It was not clear, however, if the US DoL was actually willing to cut federal funding to the Georgia DoL if the Georgia Labor Commissioner did not comply.

The letter sent ripples of hope amongst school workers and news coverage at the Atlanta Journal Constitution (AJC) suggested that benefits may be forthcoming (N. B. Chapman & Dan, 2012). However, the Georgia Labor Commissioner asked for more time to consult with the Georgia Attorney General Sam Olens about the legality of the rule change. This set the stage for the situation to become one of state’s rights versus federal intervention.

People’s Court

Two weeks later, on 8/17/12, Atlanta JwJ hosted a mock public trial of the Georgia Labor Commissioner at First Iconium Baptist Church, a prominent African-American church with a social justice orientation. Testimony from some twenty school workers was heard by a panel of nine “judges” and over 250 community members (Sikes, 2012). The judges were members of the Atlanta JwJ Workers’ Rights Board (WRB), which includes Atlanta-based faith leaders, progressive political leaders, academics and community leaders (“Workers’ Rights Board,”). The Workers’ Rights Board serves to amplify the voices of workers, broaden the scope of a campaign, and highlights the illegal or unjust actions of an employer to the broader community. In this case, the Workers’ Rights Board was called upon to hear the stories of impacted workers and offer responses or reflections to the situation. The testimony given directly by school

workers helped the broader community to understand the urgency of the situation and helped to move people into action.

School workers had a sense of feeling undignified or “small” as a result of being denied their unemployment benefits.

“Some of my co-workers had to go to the hospital from the anxiety.....

We had to rely on going to food banks.... It was undignified”

-School Bus Driver Columbus, GA

"I've been feeling real small, it makes me feel like I've been working all these years for nothing.

Mr. Butler needs to have a conscience....”

-Food Service Worker Georgia Institute of Technology

Hearing calls to action from those directly impacted by the crisis helped to put people in motion around this issue, not only for impacted workers who were in the same situation but for the community at large.

"It is my understanding that Mark Butler is the only elected Labor Commissioner in the United States.... This is sad to think that we elected Mark Butler. Now we have to get him out of there."

First Student Chatham County School Bus Driver with Teamsters Local 728 Savannah, GA

A feeling of uncertainty or stress about the future was common amongst the school workers.

We shouldn't lay down at night, worrying missing sleep because we're digging our brains trying to figure out how we're going to make it.

Sodexo Worker at Emory University (William)

The “Judges” (Workers’ Rights Board members) who participated were:

Azedeh Shahshahani - National Security/Immigrants' Rights Project Director, ACLU of Georgia;

President-Elect, National Lawyers Guild

Derrick Boazman - Host of Too Much Truth, WAOK

Reverend Samuel Mosteller - President of the Georgia Southern Christian Leadership

Conference (SCLC)

Fr. Bruce Schultz, O.P. - Our Lady of Lourdes

Bobbie Paul - Executive Director of Georgia Women's Action for New Directions (Georgia

WAND)

Janice Mathis - Vice-President of the Rainbow Push Coalition

State Senator Nan Orrock

State Senator Vincent Fort

George K. Johnson - Big Bethel AME Church

Throughout the month of August, the dynamics of the campaign shifted as many of the school workers returned to work as the school year began. This reduced the urgency of the campaign for school workers while also reducing their availability to spend time engaging with the issue. However, university students returned to campuses and began to play a major role in

the campaign which is explained later in the paper.

Back and Forth between US DoL and the Georgia DoL, and Congressman John Lewis Weighs In

On September 3, 2013 Congressman John Lewis sent a letter to Georgia Labor Commissioner Mark Butler urging him to reinstate the benefits (Appendix 5). This letter helped to galvanize school workers and further legitimized the school workers' cause.

On September 5, 2012 the Georgia DoL responded to the US DoL, copying the Georgia Governor Nathan Deal and Attorney General Sam Olens, saying, "I have reviewed the Rule and relevant statutes and have concluded, in consultation with the Georgia Attorney General, the Rule is a reasonable interpretation of Georgia Code 34-8-197(s)." The Georgia Labor Commissioner then asked the US DoL to reconsider its position. (Appendix 6) This response confirmed that the Georgia DoL would not reverse the Rule only based on the US DoL's letter initial letter. It was not clear if the US DoL would not only maintain its stance that the Georgia DoL's move lacked statutory basis, but would also be willing to cut off federal funds to the Georgia DoL.

The decision was made within the Justice for School Workers campaign to shift the focus to the US DoL and its responsibility to uphold federal standards in Georgia. This decision was somewhat tricky because the GA DoL was clearly the ultimate target of the campaign, and the US DoL had already taken a positive stance for the school workers. The key was shifting pressure to the US DoL while respecting their initial engagement on the issue.

On October 4, 2012 a mobilization was called for at the Atlanta regional office of the US DoL in order to "thank the US DoL" for its initial stance and also to call on them to uphold

federal standards in Georgia. After notices publicizing the event were sent out, the US DoL responded by contacting the Executive Director of National Jobs with Justice and the president of the Georgia American Federation of Labor-Congress of Industrial Organizations (AFL-CIO) with requests that the event be called off and that the US DoL would follow up on this issue following the presidential elections in November. The Justice for School Workers campaign decided to honor the request and postpone the event.

October and November passed with no follow-up from the US DoL and requests for a meeting by the Georgia AFL-CIO went unanswered. Layoffs for winter break were quickly approaching, so a mobilization was rescheduled at the US DoL offices in Atlanta for December 21, 2012. About 50 school workers attended, including Savannah (Chatham County) bus drivers with Teamsters Local 728, Georgia Tech food service workers and Atlanta JwJ. About ninety hand-written letters from Georgia school bus drivers and food service workers were delivered to a representative from the US DoL. CBS Atlanta covered the letter delivery and reinforced the Georgia DoL framing that the decision about whether or not GA school workers would receive unemployment benefits is not in the hands of the US DoL.

Letter from US DoL to the Georgia Governor

Two weeks after the event at the US DoL's headquarters, the Assistant Secretary of Labor, Jane Oates sent a letter to the Georgia Governor Nathan Deal informing him that federal funds may be in jeopardy if the Georgia Labor Commissioner did not bring Georgia unemployment dispersals back into compliance with state and federal guidelines (Appendix 7). The letter indicated that despite the GA Labor Commissioner's request that the US DoL reconsider its position, the US DoL had maintained its initial stance. It also went over the

Georgia Labor Commissioner's head and addressed the Georgia Governor directly. It did not, however, go as far as to act on its initial threat to cut off federal funding.

It is important to note that those involved with the Justice for School Workers campaign were not aware that this particular letter had been sent from the US DoL to the Georgia governor until much later in the spring. Other communications from the Georgia DoL or US DoL had been retrieved through open records requests; this one had slipped through the cracks. This caused participants in the Justice for School Workers campaign to believe that the US DoL had yet to follow up on the issue, and contributed to a feeling of hopelessness among some organizations and participants in the campaign. This feeling was reinforced by the sudden resignation of the US Secretary of Labor Hilda Solis on 1/9/2013 (Nakamura, 2013). Hilda Solis was perceived to be a friend towards labor, and although it was not clear if she had been involved with the situation in Georgia, it did seem less likely that the US DoL would be willing to take decisive action in a Southern state while the US DoL was in leadership transition.

Student Organizing and Leadership

The loss of hope that followed the US Secretary of Labor Hilda Solis' resignation was accompanied by a general sense of fatigue on the part of some organizations and school workers involved in the campaign. Strong student organizing led by students at Spelman and Agnes Scott College, however, breathed life back into the campaign. Throughout the fall of 2012, Atlanta JwJ had been building relationships and raising consciousness with university students around the unemployment benefits issue. A national organizer with United Students Against Sweatshops (USAS), *KB Brower*, spent time in Atlanta in the fall of 2012. She collaborated with Atlanta JwJ to put on a student organizing training with student leaders from Agnes Scott

College, Spelman College and Emory University. This training helped to solidify relationships with students across universities and connected students to the Justice for School Workers campaign.

The most effective way to build campus student/labor organizations is around an active campaign. The Justice for School Workers campaign was an opportunity to connect and build student organizations across the city of Atlanta. Atlanta JwJ provided stability and support to interested students and agreed with USAS to take a “tag-team” approach to developing student leadership and organization around the Justice for School Workers campaign.

Marcelle Grair, a senior at Spelman College, first heard about the Justice for School Workers campaign in the summer of 2012 and began to build a relationship with Atlanta JwJ. *Marcelle* became more engaged with the campaign after meeting with two Aramark food service workers at Spelman College who were indignant about the unemployment benefits cuts, and also became interested in organizing a union in their workplace. *Marcelle's* commitment and dynamism was clear through these initial meetings and USAS decided to hire her as a Regional Organizer for United Students Against Sweatshops (USAS) beginning in January of 2013. Normally USAS does not hire regional organizers mid-way through the school year, but because of the existing Justice for School Workers campaign infrastructure, the relationship between Atlanta JwJ and USAS, and the availability of such a strong candidate, USAS made an exception.

In January 2013 an initial student meeting on the Justice for School Workers Campaign was held on Spelman's campus with about thirty students from Spelman and Morehouse College. Two Sodexo food service workers also attended the meeting, *Miss Joyce* from Emory University and *Deborah* from Georgia State University. Miss Joyce and Deborah shared their experiences

with the students of being laid off with no unemployment benefits. Hearing testimony from these affected school workers humanized the issue and helped to strengthen engagement from students.

The strategic approach for student organizations was to pressure their respective university presidents to come out against the rule change by the GA Labor Commissioner. Spelman College, Morehouse College, Morehouse School of Medicine and Clark Atlanta University are Historically Black Colleges and Universities (HBCUs) that are adjacent to each other; together they form the Atlanta University Center (AUC). Students decided to form a student organization called the AUC Alliance for Fair Labor in order to unify the three campuses around this issue. This was facilitated in-part because the same issue was affecting workers on all three campuses and the campaign trajectory could therefore be similar. During the spring of 2013, students began to play a meaningful role in the strategic development of the overall Justice for School Workers campaign. Students from Morehouse College and Agnes Scott helped to lead two key strategic planning meetings that involved unions, community groups and school workers.

On February 8th, 2013 coordinated letter delegations occurred on six Atlanta campuses including Morehouse College, Clark Atlanta University, Spelman College, Georgia State University, Emory University and Agnes Scott College urging university presidents to take a stance on the unemployment benefits issue (Sikes, 2013). Gathering in groups numbering from two to twenty, students delivered the letters to each university president. On the AUC campuses, students from the three colleges gathered into one group and delivered a letter to each of the university presidents at Clark Atlanta University, Morehouse College and Spelman College. Students coordinated a social media flurry around these letter deliveries utilizing Twitter and

Facebook and began to create more of a buzz on the campuses, particularly at the AUC.

Legislative Session

On 2/27/2013, a bill titled Senate Bill (SB) 227 sponsored by Senator Fran Millar was introduced to the GA legislature that would help to legalize the Georgia Labor Commissioner's unemployment benefits denials. The bill made clear that any contracted workers at educational institutions with a "reasonable assurance" that they would have employment following the layoff period would not be eligible for unemployment benefits and that any previous laws in conflict with this would be repealed. *Rick McHugh* from NELP provided analysis of the bill: "The legal objections to Butler's rule rested upon the fact that the rule went beyond the statute, and an agency cannot use a rule to extend the reach of a law under basic rules of administrative law. However, if they succeed in amending the Georgia code, then we are on very weak legal ground." Passage of the bill would severely limit the US DoL's ability to intervene in GA for two reasons:

- 1) Passage of SB227 would put the GA Labor Commissioner's rule change in compliance with state statutes (non-compliance was part of the US DoL's argument to reverse the unemployment benefits denials).
- 2) The GA Labor Commissioner had initially acted alone. A vote by the GA legislature signifies broader support, making it politically more risky for the US DoL to intervene.

Introduction of this bill implied that the US DoL was correct in its legal assessment of the situation and indicated that the Georgia Labor Commissioner *Mark Butler* felt it was necessary to

change state law to reinforce his position.

SB227 ultimately did not pass the senate. This was an important step but the victory was short lived. A legislative maneuver allowed SB227 to be attached to House Bill (HB) 361, a bill introduced by Senator Brandon Beach (R-Alpharetta) supported by the Chamber of Commerce that made it easier for workers to “opt-out” of paying union dues, essentially undercutting funding towards union organizations.

Bills can be combined as long as they are considered “germaine.”⁴ Combining the two bills helped to further engage the larger labor movement against HB361 because they had been engaged with its initial content. Lobbyists with the Communications Workers of America (CWA), UFCW and other union organizations became involved in trying to stop the SB227 portion of the bill. On March 26th the Georgia State Senate passed HB361 by a party line vote of 36-16 despite arguments by a number of Georgia senators including Senator *Vincent Fort and Senator Nan Orrock*, both of whom had heard testimony from impacted workers at the Atlanta Jobs with Justice Workers Rights’ Board event earlier in the fall.

After passing the Senate, the bill needed to pass an “up or down vote” in the House before being signed or vetoed by the Governor. If an up or down vote occurred, it was unlikely to stop the bill within a Republican controlled House. However, time was a crucial factor as “Sine Die” (last day of the legislature) had arrived, meaning the vote would have to occur before midnight. The question of “germaneness” of the two bills still remained.

On March 28th the speaker of the House David Ralston (R-Blue Ridge) ruled that the Senate amendment violated the constitutional requirement that any bill deal only with one topic (Sheinin, 2013). This meant that the language around unemployment benefits initially from

⁴ In order to combine two bills they must be considered “germaine”, meaning the contents of the two bills must be related to each other.

SB227 was dropped from HB361.

This news was a huge step for the Justice for School Workers campaign because it re-created space for the US DoL to intervene. On April 2' 2013 just days after legislation failed to change state law to support the Georgia Labor Commissioner's rule change, a letter was sent from Assistant Secretary of Labor *Jane Oates* at the US DoL to the GA Labor Commissioner *Mark Butler* (Appendix 8). Jane Oates wrote that she was planning on recommending to the interim secretary of labor to commence conformity proceedings to confirm whether or not the Georgia DoL was in compliance with the Social Securities Act. If not, federal funds critical to Georgia programs such as unemployment compensation for Ex-Service members, Unemployment Compensation for Federal Employees, Disaster Unemployment Assistance and Emergency Unemployment Compensation would be withheld.

Victory Announced at Morehouse College

The AUC Alliance for Fair Labor had set an April 4' 2013 date for a public forum at Morehouse College including impacted food service workers from across the city, students from Morehouse and Spelman College and a Morehouse College professor. The forum would be followed by a candlelight vigil in front of the MLK Jr. King Chapel on the Morehouse campus or at one of the homes of the university presidents. The goal of the forum was to raise awareness of the unemployment benefits denials amongst students and to put pressure on the AUC college presidents to take a stance on the issue, especially given the impending summer layoffs.

An AJC article came out later that afternoon just as the public forum at Morehouse College began. Although the AUC Alliance for Fair Labor had been informed of the victory, students agreed that it would not be announced until the end of the forum. After sharing

experiences from Sodexo food service workers from Clark Atlanta University and Emory University and students, *Miss Joyce* announced the news to everyone in attendance. *Miss Joyce* then led students and school workers to the MLK Chapel where the candles were lit and the good news was shared. The date in which the Georgia Labor Commissioner announced that he would return and reinstate unemployment benefits for school workers (April 4, 2013) also happened to be the 45th anniversary of Martin Luther King Junior's assassination.

The AJC article written by Dan Chapman revealed more details about the unemployment benefits. The GA Department of Labor will pay back \$8,000,000 to over 4,000 GA school workers and reinstate unemployment benefits for future periods of layoffs (D. Chapman). The GA Labor Commissioner stated, "These workers deserve to be paid year-round just like their publicly employed counterparts." However, the GA Labor Commissioner indicated that he would seek new legislation around this issue next year (D. Chapman).

Chapter 5: Discussion & Conclusion

This case study lies at the intersection of massive shifts in US employment structures, changes in public policy and potential linkages to health and social well-being. The case in Georgia offers in-depth insight into the structural precariousness of contingent work. A policy decision by a statewide official exposed this vulnerability as well as the critical role of the public safety net for this contingent work force. The systematic layoffs of contracted school employees during school breaks in Georgia shifted the economic responsibility from the employer to the state at various times throughout the year. This makes Georgia school workers more vulnerable to the political decisions made at the state level regarding unemployment benefits. If the school workers were employed year round on a twelve month pay scale similar to public school teachers, the reliance on the state's safety net would diminish.

Grassroots organizing was used to pressure policy makers at the state and federal level to effectively remedy the immediate crisis. However, the structural precariousness of these jobs remains, leaving the health and well-being of contracted Georgia school workers vulnerable to the whims of politicians and their employers looking the other way. In the case of the GA school workers, the immediacy of this threat is highlighted by the GA Labor Commissioner's stated intention to seek new legislation next year (D. Chapman). A critical factor that allowed the US DoL to intervene in Georgia was the fact that the GA Labor Commissioner's unilateral changes to unemployment compensation (UC) lacked any statutory basis. If legislation in Georgia is passed to amend Georgia's unemployment insurance rules to legalize a the unemployment denials, the unemployment benefits could be taken away again, this time with less leverage available to the US DoL.

Justice for School Workers Campaign, Why did it Succeed?

Conditions facilitated worker engagement

The level of participation in the campaign among Georgia school workers was higher than might be expected for a state with very low union density, history of anti-worker policies and recurring retaliation against organizing workers. The participation from workers in various cities outside of Atlanta including Griffin, Macon, Columbus, Savannah, Augusta and Lithia Springs is notable in itself (because worker organizing outside of Atlanta is less common), but more so because many of these workers were not previously connected to worker organizations. Workers acted collectively and almost spontaneously. Along the way, organization began to develop, through the medium of Atlanta Jobs with Justice. There are two factors listed below that help to explain this heightened participation:

1) The drastic and sudden nature of the unemployment benefits cuts.

The removal of expected income while being laid off over summer break in 2012 caused a major crisis for many school workers and their families. School workers who were already living paycheck to paycheck had budgeted for the summer of 2012 thinking that they would receive this source of income. The sudden removal of this income forced some workers and their families to lose health insurance, to depend on food pantries and to move out of their own apartments into homeless shelters. Some had vehicles repossessed and some could not pay electricity bills. It was a threat to basic survival. A food service worker explains some of her experience being denied unemployment benefits:

“Many nights I put those kids to bed and the only thing they ate was ramen noodles. Sometimes I felt like, Lord, if I don’t take care of these kids, I’ll have to give them up.”

-Sodexo Food Service worker at Emory University, Grandmother of Five

The poor communication to school workers that would be denied their unemployment benefits gave workers little time to prepare for the gap in income over the summer. This was coupled with the difficulty of trying to find employers that were willing to take workers on temporarily over the summer, considering most school workers would return to their school based employment in the fall.

2) It was the state, not the employer that was responsible for the cuts.

Oftentimes employment related issues are between the employee and the employer. The issue(s) might be around wages, paid sick days, respect on the job or other working conditions. If the employees raise grievances around these issues, the “decision maker” is usually the employer. Speaking out about workplace issues can be very difficult for workers, especially in a right-to-work state like Georgia where there are few protections in place for workers. Fear of retaliation and divide and conquer tactics on behalf of management have been effective in stopping workers from organizing collectively and speaking out about workplace issues. The “epidemic of employer unfair labor practices” since the 1980’s has been well documented” (Garren, 2000). In this case the issue was not with an employer’s policy but a decision by the

state (the Georgia DoL). This made the fear of retaliation by the employer less likely, and in some cases, employees were even encouraged by employers to attend events that were part of the Justice for School Workers campaign. Both of these factors helped to engage and connect a broader base of workers across Georgia than might normally be expected.

Compelling and authentic public mobilizations and events

A series of public demonstrations at local DoL offices across the state of Georgia in the summer of 2012 helped to put a public spotlight on the issue by bringing together affected workers, both union and non-union, giving legitimacy to the campaign (because those directly affected by the issue were leading the charge) and engaging media outlets throughout the state of Georgia. The public demonstrations put this issue on the radar of the US DoL and highlighted that there was a local base of organizations and affected school workers committed to this struggle.

The testimony given at events by affected school workers was compelling, heart wrenching and educational which helped to move school workers and community supporters into action around this issue. Seeing and hearing their counterparts speak out provided a sense of confidence and affirmation that encouraged other school workers to engage in this struggle.

Power analysis: willing to shift targets

The Georgia Labor Commissioner, Mark Butler, made the decision to cut off unemployment benefits to Georgia school workers. He also held the power to reinstate the unemployment benefits and to provide back pay to all of the school workers. There was frustration and anger towards the Georgia Labor Commissioner that helped to bring more

affected workers out to events geared towards the Georgia DoL. The local Georgia DoL offices were located across the state and they made natural locations for demonstrations and events. All of these factors made the Georgia Labor Commissioner a key decision maker to be pressured.

However, early on it became clear that the Georgia Labor Commissioner was not interested in dialogue with Georgia school workers or union organizations representing affected school workers. The election for the Georgia Labor Commissioner position would not occur until November 2014, making election oriented pressure less effective. Furthermore, the lack of strength and density of union organizations in a right-to-work state like Georgia made direct pressure on a statewide elected official a difficult task.

The threat to cut off federal funds from the US DoL to the Georgia DoL became the clear pressure point that could force the Georgia Labor Commissioner to move on this issue. However, it was somewhat sensitive to shift pressure to the US DoL because they had taken a stance in favor of Georgia school workers. The US DoL had shown a willingness to uphold federal Unemployment Insurance standards and to hear the voices of Georgia workers but they had not yet used their power in the situation by cutting off federal grant funding to the Georgia DoL. This along with strong urging from Teamsters organizer *Ben Speight* helped to shift campaign focus to the US DoL. Letters from impacted school workers, public demonstrations and a clear media narrative helped to focus attention on the fact that the Georgia Labor Commissioner was out of compliance with federal and state Unemployment Insurance guidelines putting the onus on the US DoL to act. Ultimately it was the US DoL's April 2nd letter containing a more serious threat to cut off federal funding that moved the Georgia Labor Commissioner. (Appendix 6)

Local leadership, national support

The Justice for School Workers Campaign engaged a broad coalition of local Georgia organizations with support from national organizations. The strategic direction of the campaign was led by local organizations in Georgia, which helped to keep campaign decisions responsive to the situation on the ground. If organizations not based in Georgia or if the national leadership of local Georgia organizations had been making critical campaign decisions, these out of town groups may have been less informed of the culture, relationships and power dynamics in Georgia. It also may have been easier for the opposition to delegitimize the authenticity of the workers by claiming that “outside forces” were stirring up trouble.

Collaboration between Atlanta Jobs with Justice and United Students Against Sweatshops (USAS) was important in developing student organization and leadership throughout the campaign. About fifteen Atlanta college students attended a national USAS education and training conference in Florida in February, 2013. This conference helped to deepen engagement from Atlanta students and to develop valuable organizing skills that were applied to the Justice for School Workers campaign.

National Jobs with Justice and NELP provided critical insight into the DoL at the federal level. Meaningful support from national JwJ and other national organizations with a presence in Washington DC made the potential to escalate pressure on the US DoL more feasible.

One common enemy, one common cause

It is said that people unite against a common enemy. The nature of this issue set the conditions to unite thousands of school workers both union and non-union across different sectors, workplaces and cities in a common struggle. One central institution (the GA DoL) made

the decision to cut off benefits to thousands of workers. The issue and solution was very clear to school workers. The commonality of the situation for Georgia school workers as well as the common target for their grievances helped to unite school workers.

Traditional media and social media as recruitment tool

Earned media is critical to almost any public health, social justice or political campaign. The way in which the public perceives an issue matters, and the ability to control the narrative around an issue can make or break a campaign.

In the case of the Justice for School workers campaign, media played another critical role providing organizational contact information to school workers across the state. Many school workers were looking for answers when they received their unemployment benefit denials and the Georgia DoL was not helpful. In numerous newspaper articles, television news reports and radio interviews about the unemployment benefits issue, the organization Atlanta Jobs with Justice or simply “Jobs with Justice” was mentioned as being involved in this issue. This helped to give school workers a lead, and those who had access to the internet often performed a “Google search” in order to find contact information and were then able to call or e-mail the office of Atlanta Jobs with Justice to become more informed and involved in the campaign.

Social media presence was critical to recruitment. Atlanta Jobs with Justice’s website (www.atlantajwj.org) posted over thirty blog posts related to the Justice for School Workers campaign. This contained information about the status of the unemployment benefits, upcoming events, legislative updates, fliers and petitions that could be used to educate co-workers.

The Facebook page of Atlanta Jobs with Justice⁵ was critical for sending out updates

⁵ Atlanta Jobs with Justice Facebook page: <https://www.facebook.com/AtlantaJwJ?fref=ts>

regarding the Justice for School Workers campaign and was also used as a recruitment tool. Dozens of impacted school workers across the state of Georgia “Liked” (connected to) the Atlanta Jobs with Justice Facebook page, which sometimes led to further engagement. For example the Facebook page was a clearinghouse for feedback from school workers. This included updates about the unemployment benefits appeals process from school workers, information about what workers were hearing from their local DoL office, what they were hearing from their employers and feedback about upcoming events.

A petition was created on Change.org that urged Georgia Labor Commissioner Mark Butler to reinstate the unemployment benefits.⁶ Petition signers were able to leave a comment on the petition, which helped to identify more Georgia school workers.

All of the earned media and social media had a cumulative effect in that if impacted workers used internet search engines with search terms or phrases related to the crisis around unemployment benefits in Georgia, it made it more likely that something related to Atlanta Jobs with Justice would appear high in the search list.

Social Determinants of Health Framework

Georgia school workers experienced an economic crisis in part because of the contingent nature of their employment when they were suddenly denied substantial amounts of yearly income. From the perspective of the SDH, this directly lowered their socioeconomic positions. In terms of material goods that relate to the SDH framework, school workers were unable to pay for healthy food, transportation and housing. Some school workers were forced off of health insurance and could not afford medicine. It is generally agreed that contingent work lowers

⁶ Petition can be found here: <http://www.change.org/petitions/georgia-department-of-labor-reinstate-unemployment-benefits-for-school-workers-in-georgia>

wages and access to benefits; creating the narrative of this case was guided by the lens of SDH to develop a more nuanced understanding of the human impact of contingent work and also highlighted the vulnerabilities that accompany contingent work and their potential to interact with the SDH.

The Importance of Organization

The existing infrastructure of worker organizations and networks was able to mount an effective response to the immediate crisis. And in the case of the students, new organizations were developed. In a right-to-work state like Georgia, a tangible victory for low-wage workers is very rare. In this case \$8,000,000 dollars was distributed from the Georgia DoL to 4,000 impacted school workers. In addition, these unemployment benefits are (at least for now) accessible to laid off Georgia school workers for future periods of layoffs, multiplying the economic impact of this victory.

Had none of the impacted workers been members of union organizations and had Atlanta Jobs with Justice not existed there would have been little hope for the school workers. Conversely if a higher percentage of school workers had been part of union organizations in GA it would have been more difficult for the Georgia Labor Commissioner to carry out his agenda.

This victory was important for union organizations in Georgia. A common perception is that unions serve only the interests of their members and not that of the broader working class. The Justice for School Workers campaign demonstrated that unions support the interests of all workers because many of the school workers who benefited from the campaign were not union members. These victories help to improve public's perception of unions. For the 4,000 or so school workers who received direct material benefit from the Justice for School Workers

campaign, the perceptions of unions may be substantially improved. The breadth and depth of this impact depends on school workers associating the unemployment benefits with labor unions. Some school workers, particularly in rural areas may not have been aware of the active campaign that served to get the benefits back while others who actively participated may have had a more transformative and positive experience with union organizations.

Affordable Care Act and Contingent Work

The ACA could mean a significant expansion of health care coverage for contingent workers. It may also mean a significant expansion of contingent workers in order for companies to avoid healthcare coverage for their workforce. Some companies such as Walmart and Papa John's have threatened to reduce their workers' hours below the thirty hour threshold in order to avoid having to pay for coverage ("Wal-Mart,"). However, there has already been backlash from consumers towards some companies that have made such threats (Ungar, 2013).

The current cost of many health plans exceeds \$2,000 per employee per year (the penalty for companies that fail to offer coverage); some employers may drop their existing coverage and pay the tax (Junkel, 2013). If employers start to push more workers into contingent and part time positions or take steps to keep contingent workers off of health insurance, community and labor organizing strategies may be effective. Under the ACA, health plans cannot be considered "too costly" for employees. To be deemed "affordable," each employee's premium must be less than 9.5 percent of an employee's "household income" (later clarified to be the income as stated on the employee's W-2), which requires employers to adjust plan benefit levels and employer contributions to meet this requirement. This may make plans offered to contingent workforces

more affordable.

Implications & Recommendations

The downward push on wages, benefits and job security accompanied by the rise of contingent jobs is documented to a certain extent in the literature and by governmental agencies. However, a crisis like the one that occurred in GA and its relation to contingent work is not well documented in existing literature. More research is needed to understand how contingent jobs may further expose workers to economic crisis and vulnerabilities as a result of external political forces.

Implications & Recommendations Specific to Contingent Georgia School Workers

The success of the Justice for School workers campaign was an important step for school workers but the underlying precariousness of this contingent workforce remains especially while the current GA Labor Commissioner remains in office.

It is important to fend off the immediate threat of denied unemployment benefits in 2014 and to develop long-term solutions by creating more stable employment structures for Georgia school workers. In order to accomplish these goals I propose the following:

1) Increase union density (percentage of workers in a union) amongst this sector of the work force.

This serves to increase and organize voter turnout amongst GA school workers, strengthen organizations that represent the interests of school workers and increases bargaining power with

employers.

2) Elect a new GA Labor Commissioner in November of 2014 who supports working families

3) Stabilize the unemployment trust fund in GA by raising the taxable wage base and maximum state Unemployment Insurance tax.

Georgia's taxable wage base is low relative to other Southern states at \$9,500 (Richie, 2012). The rates that contracted companies at Georgia schools currently pay for their high rates of lay offs is very little compared to the amount paid out from the embattled unemployment trust fund. As the Georgia Labor Commissioner states after he was forced to reverse his decision, "these businesses are knowingly gaming the system." Employers of contracted GA school workers rely on the state to pay for their employees during periods of layoffs instead of paying their employees year round. Companies who choose to lay off employees over school breaks should pay a higher UI tax rate to offset the cost to the unemployment trust fund.

4) Employ school workers full time and year round

A long term goal should be full and fair employment for Georgia school workers where the responsibility of full time year round employment rests on the employer.

Implications for Public Health

Further research examining the relationship between contingent jobs and health is needed. In particular, research is needed that engages directly with workers to understand their

experiences in the contingent workforce. The disparate definitions and conceptions of contingent work make it difficult to develop generalizable conclusions. An agreed upon definition of contingent work amongst researchers, governmental officials and other stakeholders would help to quantify this workforce.

The field of public health must recognize the importance of employment quality in relation to the social determinants of health framework and health outcomes. In order to address a root cause of health inequity, policies around employment must be considered within the realm of public health. In this case, grassroots organizing was used to ensure that contingent workers had access to unemployment benefits during layoff periods. Although access to unemployment benefits may not typically be considered an issue to public health practitioners, according to the social determinants of health framework it should be.

The social determinants of health may seem out of reach or abstract to public health practitioners. This paper helps to clarify that intervention at the level of employment is a pragmatic opportunity to influence the social determinants of health.

The implementation of the ACA holds positive implications for the contingent workforce by providing improved access to medical coverage. Public health leaders must weigh in to ensure that employers are not using contingent workers as a way to bypass expanding health coverage. By getting involved public health workers can play an essential role in creating a smooth transition to the ACA next year.

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Appendix 1: Institutional Review Board (IRB) Determination



Institutional Review Board

July 30, 2013

Roger Sikes, MPH Candidate
Emory University
Rollins School of Public Health

RE: Determination: No IRB Review Required
Title: *Contingent Jobs and Community Organizing: A Georgia Case Study on the Social Determinants of Health*

Dear Mr. Sikes:

Thank you for requesting a determination from our office about the above-referenced project. Based on our review of the materials you provided, we have determined that it does not require IRB review because it does not meet the definition(s) of "research" involving "human subjects" as set forth in Emory policies and procedures and federal rules, if applicable. Specifically, in this project, you will conduct a case study of the "Justice for School Workers" campaign that took place from April 2012-April 2013. The case study will use various mediums for collecting publicly available data including: newspaper articles, testimony from public forums and events, informal conversations during the campaign, documentation secured through open records requests and videos from the campaign. The purpose of the case study is to better understand how shifts in US employment structures relate to the social determinants of health.

Please note that this determination does not mean that you cannot publish the results. If you have questions about this issue, please contact me.

This determination could be affected by substantive changes in the study design, subject populations, or identifiability of data. If the project changes in any substantive way, please contact our office for clarification.

Thank you for consulting the IRB.

Sincerely,

Carol Corkran, MPH, CIP
Interim Team Lead

Appendix 2: First letter from US DoL to GA DoL about the unemployment benefits denials

U.S. Department of Labor

Employment and Training Administration
200 Constitution Avenue, N.W.
Washington, D.C. 20210



AUG - 2 2012

Mr. Mark Butler
Commissioner
Georgia Department of Labor
148 Andrew Young International Boulevard, NE
Suite 600
Atlanta, Georgia 30303

Dear Commissioner Butler:

We have reviewed changes to Georgia Rule 300-2-9.07 concerning denial of unemployment compensation (UC) between and within academic years or terms to bus drivers and certain other workers employed by private companies under contract with educational institutions and school districts in the state for conformity with Federal UC law. For at least 30 years it has been clear that while some educational workers may find temporary work over the summer, those private sector educational employees who do not, and whose employers have paid into the UI system are eligible for unemployment benefits. As we understand it, Georgia Rule 300-2-9.07 was amended effective January 30, 2012, to more broadly address payment of UC to educational workers, reflecting the Georgia Department of Labor's (Georgia DOL) recent reinterpretation of its state UC law. This rule and its implementing policy, published on February 1, 2012, in Georgia DOL's UI Memorandum No. 2012-04, expand the "between and within terms" denial provisions beyond what the Georgia Code authorizes. Since the between and within terms denial provisions of Federal UC law do not apply to individuals working for private companies, the new policy and regulation create an issue with Federal UC law, which requires, as a condition of receipt of grants for the administration of the state law, that the state have methods of administration to insure full payment of UC "when due." A detailed explanation follows.

Georgia Rule 300-2-9.07, as amended, provides:

.... (1) Benefits based upon service in employment described in subparagraphs (a)(1) and (a)(2) of OCGA Section 34-8-196 performed for, with, or on behalf of an educational employer (including service for an educational institution, educational service agency or an entity providing services to or on behalf of an educational institution) are subject to the benefit payment limitations described in OCGA Section 34-8-196(a) with respect to all service in covered employment under any provisions of OCGA Section 34-8-35, including private employment.... [Emphasis added.]

This amendment extends the between and within terms denial to workers employed by private companies under contract with educational institutions and school districts in the state, including bus drivers.

- 2 -

Section 3304(a)(6)(A) of the Federal Unemployment Tax Act (FUTA) requires, as a condition of the Secretary of Labor's certification, that state law cover services that, as provided by section 3309(a)(1), are excluded from the definition of "employment" at section 3306(c) solely because they are performed "in the employ of" either: (1) state or local governmental entities, federally recognized Indian tribes, or their instrumentalities (section 3306(c)(7)); or (2) "a religious, charitable, educational, or other organization described in section 501(c)(3) [of the Internal Revenue Code] which is exempt from income tax under [IRC] section 501(a)" (section 3306(c)(8)). (Exceptions to coverage for these entities can be found in section 3309(b).) Section 3304(a)(6)(A) also requires that UC based on services performed for these entities be payable "in the same amount, on the same terms, and subject to the same conditions as compensation payable on the basis of other service subject to such law"

The only exceptions to this "equal treatment" requirement for individuals in the employ of these entities are found in subsections (i) through (vi) of section 3304(a)(6)(A), which, under certain circumstances, either permit or require denial of UC between or within terms for service performed in the employ of educational institutions, educational service agencies (ESA), and certain other entities. As section 3304(a)(6)(A) only pertains to services provided by individuals in the employ of state governmental entities, certain non-profit organizations, and Indian tribes, it does not apply to the payment of UC between and within terms to individuals in the employ of private companies under contract with the state's educational institutions and school districts, such as bus drivers. The law governing private sector and public sector educational employees has long been different. Further, since the clause (i) – (vi) denials are exceptions to the "equal treatment" requirement, payment of UC to individuals employed by private companies between or within terms is neither prohibited by nor conflicts with Federal law. In short, Federal law permits states to have eligibility provisions between and within terms for individuals in the employ of private employers that are different from provisions governing individuals in the employ of state governmental entities, certain non-profit organizations, and Indian tribes.

Your May 30, 2012, letter indicates that this policy and regulatory change is based on a reinterpretation of Georgia Code section 34-8-35, subsections (h) and (i), and language in section 34-8-196, concerning certain employees working for an educational institution. However, those provisions do not pertain to individuals in the employ of private employers. Georgia Code section 34-8-196, governing "benefits based on service in educational institutions" and corresponding to section 3304(a)(6), requires that UC based on service performed in the employ of the state or an educational institution be payable on the same terms as other services, except as provided in that section. Georgia Code section 34-8-35(h) and (i) define the services addressed in 34-8-196. Specifically, Georgia Code section 34-8-35(h) defines "employment" to include "service performed in the employ of this state or any of its instrumentalities . . ." [emphasis added] and section 34-8-35(i) defines "employment" to include "service performed by an individual in the employ of a religious, charitable, educational, or other organization, but only if such organization meets the definition of employer in Code Section 34-8-33" [emphasis added]. Thus, although these provisions may be worded slightly differently than the corresponding provisions of federal law, it is clear that they provide the same coverage and limitations on coverage. As such these provisions do not provide an adequate statutory basis for the policy and regulatory change. It is a matter of statute and absent a statutory change, a change in guidance or regulations is not sufficient to authorize this significant change.

- 3 -

Amended Rule 300-2-9.07 cites as authority Georgia Code sections 34-8-70 and 34-8-190, along with section 34-8-196. However, neither of those sections appears to provide a reasonable statutory basis for this regulation. Section 34-8-70 authorizes the Commissioner of Labor to amend regulations. Section 34-8-190 requires that UC claims be made in accordance with the rules prescribed by the Commissioner.

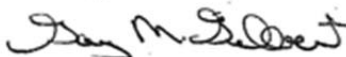
In addition, this policy and regulation appear to conflict with Georgia Code section 34-8-196(a), which applies the between and within terms denial provisions to services to which section 34-8-35(h) and (i) apply. Subsection (h) covers services in the employ of state and local governmental entities and their instrumentalities that are excluded from the FUTA definition of employment at section 3306(c)(7). Subsection (i) covers services in the employ a religious, charitable, educational, or other organization that are excluded from the FUTA definition of employment at section 3306(c)(8). Thus, Georgia Code section 34-8-196(a) limits the educational institutions to which the between and within terms denial applies to public-sector employers, excluding private entities such as the private bus companies at issue here.

Section 303(a)(1) of the Social Security Act requires that state law provide for "such methods of administration . . . as are found by the Secretary of Labor to be reasonably calculated to insure full payment of unemployment compensation when due[.]" As explained above, there is not a valid statutory basis in Georgia law for the regulation applying between and within terms denial provisions to individuals in the employ of private employers. Therefore, promulgating a regulation that denies such individuals UC under those conditions creates an issue with the payment "when due" requirement. Since there is no adequate statutory basis for such a provision, please cease administering this regulatory and policy change immediately.

Please respond to this letter in writing within thirty days of receipt to inform us of the actions the Georgia DOL will take to ensure that state law conforms to the requirements of Federal and state UC law, and that all individuals who were improperly denied UC under the revised regulation are paid the UC to which they are entitled.

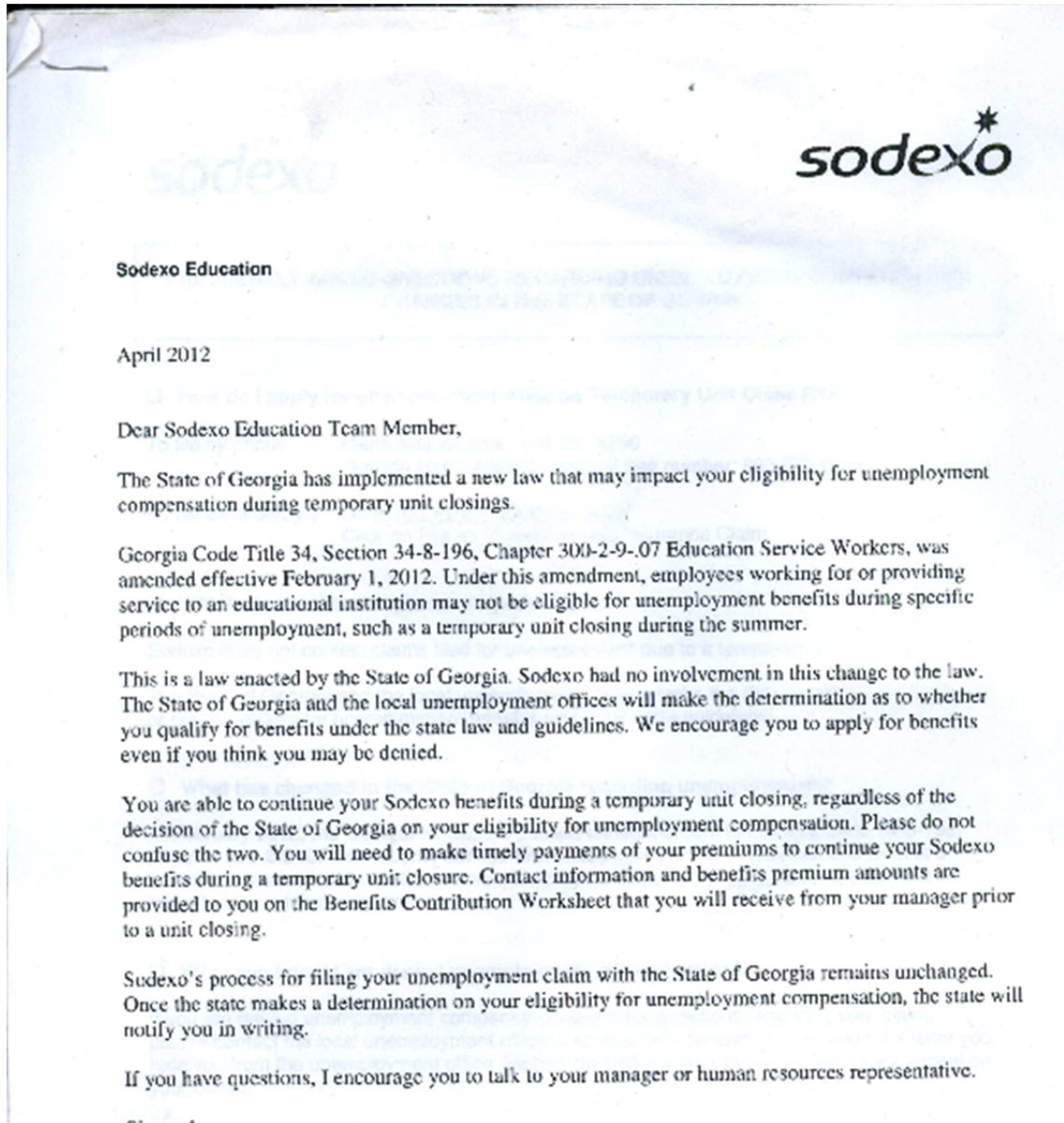
Should you have any questions regarding this letter, please contact Randy Fadler, your Regional Office UI Legislative Specialist, at (404) 302-5360 or Fadler.Randy@dol.gov.

Sincerely,




Gay M. Gilbert
Administrator
Office of Unemployment Insurance

cc: Helen Parker
Regional Administrator
Atlanta

Appendix 3: Letter from employer about possible unemployment benefits denials

Appendix 4: Notice of public hearing posted on the Georgia DoL's website



GEORGIA DEPARTMENT OF LABOR

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Notice of Proposed Rulemaking

NOTICE OF PROPOSED RULEMAKING

November 9, 2011

TO ALL INTERESTED PERSONS:

Notice is hereby given that, pursuant to the authority contained in O.C.G.A. Code Section 34-8-70, it is proposed that the following rules and regulations governing the Employment Security Law be amended: Rule 300-2-4-.08 Waiver of Overpayments. Amended; Rule 300-2-6-.02 Supplying Information from the Records of the Department. Amended; Rule 300-2-6-.03 Access to Records by Public Officials. Amended; and Rule 300-2-9-.07 Retroactive Payments for Educational Workers. Amended. An exact copy of the proposed amendments may be obtained by calling the Georgia Department of Labor at 404-232-3990.

To provide the public an opportunity to comment upon and provide input into the formulation of these rules, a public hearing will be held at 10:00 A.M. on Friday, December 9, 2011 at the Georgia Department of Labor, 148 Andrew Young International Boulevard, N.E., 1st Floor Training Suite 101-B, Atlanta, Georgia 30303. Any participant in the public hearing may make an oral statement, submit a statement in writing, or do both. Oral statements should be concise to permit all interested persons an opportunity to be heard. Written statements must be submitted before the close of business at the Georgia Department of Labor on the date of the public hearing.

For those persons unable to attend the hearing, written statements may be submitted for consideration at the Georgia Department of Labor prior to the close of business on the date of the public hearing. Statements should be mailed or delivered to:

Mark Butler
Commissioner of Labor
Suite 600-Sussex Place
148 Andrew Young International Blvd., N.E.
Atlanta, Georgia 30303-1751

A synopsis of the proposed amended rules, as well as each amended rule is also available in PDF format. **Adobe Acrobat Reader** is required to view or print these documents. A free software download is available from the [Adobe web site](#).

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Mark Butler
Commissioner



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Appendix 5: Letter from Congressman John Lewis to Georgia Labor Commissioner Mark Butler and Georgia Attorney General Sam Olens

JOHN LEWIS
5th District, Georgia
SENIOR CHIEF DEPUTY
DEMOCRATIC WHIP
COMMITTEE ON
WAYS AND MEANS
RANKING MEMBER
OVERSIGHT SUBCOMMITTEE
HUMAN RESOURCES



Congress of the United States
House of Representatives
Washington, DC 20515-1005

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343 CANNON HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-1005
(202) 225-3801
FAX: (202) 225-0351

DISTRICT OFFICE:
THE EQUITABLE BUILDING
100 PEACHTREE STREET, N.W.
SUITE # 1920
ATLANTA, GA 30303
(404) 659-0116
FAX: (404) 331-0947

September 3, 2012

Commissioner Mark Butler
Georgia Department of Labor
148 Andrew Young International Boulevard, NE
Suite 600
Atlanta, Georgia 30303

The Honorable Sam Olens
Attorney General
The Office of the Attorney General
40 Capitol Square, SW
Atlanta, Georgia 30334

Dear Commissioner Butler and Attorney General Olens:

Since February, I watched the effect of your decision to deny unemployment compensation to the estimated 60,000 Georgians who are contract employees providing services to schools or other educational institutions. Following the U.S. Department of Labor's August 2, 2012 review of this action, I hope that the Georgia Department of Labor will immediately comply with both Federal and state law and provide the due benefits immediately.

As you well know, the mission of the Georgia Department of Labor is *"to work with public and private partners in building a workforce system that contributes to Georgia's economic prosperity."* This new rule does not improve our collective economic prosperity. If anything, the decision to deny unemployment compensation to contract employees who provide services to schools or other educational institutions is wreaking havoc on tens of thousands of Georgians and their families who are already struggling to make ends meet.

The U.S. Department of Labor determined that your interpretation of the law does not apply to this population. This unprecedented action hurts the workers and their families who feel as if they had the rug pulled out from underneath them. People are already struggling to keep a roof over their heads and food on the table, and the February revised rule does nothing to help our state's economic woes. The U.S. Department of Labor has spoken, and Georgia should reverse this seriously flawed policy and comply immediately.

For public officials, there is a shared responsibility to do our best to help the people we were elected serve – to make their lives, their businesses, the economy, and our communities stronger, safer, and sounder. Everyone makes mistakes, but now is the time to make wrongs right. As always, I thank you for your consideration of my views on this time-sensitive issue.

Sincerely,

John Lewis
Member of Congress

Appendix 6: GA Labor Commissioner's response to US DoL**GEORGIA DEPARTMENT OF LABOR**

148 ANDREW YOUNG INTERNATIONAL BLVD., NE • ATLANTA, GEORGIA 30303-1751

MARK BUTLER
COMMISSIONER

September 4, 2012

Gay Gilbert
Administrator
Office of Unemployment Insurance
200 Constitution Avenue, NE – Room S-4524
Washington, D.C. 20210

Re: Georgia Rule 300-2-9.07

Dear Ms. Gilbert:

This letter is in response to your correspondence of August 2, 2012 regarding the changes to Georgia Rule 300-2-9.07. I have reviewed the Rule and relevant statutes and have concluded, in consultation with the Georgia Attorney General, the Rule is a reasonable interpretation of O.C.G.A. §34-8-196(a).

As you noted in your letter, the Rule was amended effective January 30, 2012 to clarify unemployment compensation for workers who provide any educational service for or with any educational institution in the State. The Georgia Department of Labor took this action in response to complaints from private-sector employers of educational service workers and public educational employees that individuals performing identical jobs were receiving different treatment under the unemployment compensation system in Georgia.

Georgia Code § 34-8-196(a) establishes that unemployment benefits based on service for or with any educational institution "shall not be paid during periods of unemployment if services were performed in the prior year, term, or vacation period and there is a reasonable assurance of returning to work for an educational institution immediately following the period of unemployment." *Id.* Subsection (a)(1) applies the limitation on benefits to instructional, research, and principal administrative personnel; subsection (a)(2) applies to workers who perform services for schools in any other capacity. In short, these sections state that educational workers, whether their job duties are instructional or otherwise, do not qualify to receive unemployment benefits during planned breaks in the school calendar provided they have reasonable assurance of continuing employment following those breaks.

Under the statute, these "between and within terms denial" provisions apply to service in employment as defined under Georgia Code § 34-8-35(h) and (i). Section (h) describes in relevant part service performed

Gay Gilbert
 September 4, 2012
 Page 2 of 3

in the employ of this state or any of its instrumentalities or any political subdivision of this state or any of its instrumentalities . . . provided that such service is excluded from 'employment' as defined in the Federal Unemployment Tax Act by Section 3306(c)(7) of that act . . .

Section 34-8-35(h) thus encompasses employment by state and local government entities, including local school boards. Section 34-8-35(i), on the other hand, is less restrictive, describing as "employment" service performed

in the employ of a religious, charitable, educational, *or other organization*, but only if such organization meets the definition of employer in Code Section 34-8-33. (emphasis added)

This section of code is similar to section 3306(c)(8) of the Federal Unemployment Tax Act, which creates a category of employment defined as service performed in the employ of "a religious, charitable, educational, or other organization described in section 501(c)(3) [of the Internal Revenue Code] which is exempt from income tax under [Internal Revenue Code] section 501(a)." But, unlike the federal law, the Georgia statute does not require an employer to be tax-exempt. Instead, Georgia law requires an employer under section (i) to meet the definition of "employer," which in turn is described in relevant part as any employing unit that has "paid \$1,500 or more for service in employment; or had in employment at least one individual . . . for some portion of a day in each of 20 different calendar weeks." Georgia Code § 34-8-33(a). The employers to whom Rule 300-2-9.07 applies qualify as employers under this definition.

As the Georgia Statute can therefore be interpreted to include under section (i) for-profit employers that engage workers that perform services for or with an educational institution, the rule was promulgated to encompass this meaning. As O.C.G.A. § 34-8-191 states, "[a]ll benefits payable from and out of the Unemployment Compensation Fund shall be paid . . . in accordance with such rules and regulations as the Commissioner may prescribe." Because employees of these "other organizations" in many cases perform the same services as their counterparts who are directly paid by a school system or other governmental or non-profit entity, the Commissioner found that it is reasonable to apply to them the "between and within terms" denials provided for in Georgia Code Section 34-8-196.

Federal law also permits States to apply between and within terms denials to employees of private companies who perform services with or for educational institutions. Your letter noted that "payment of [unemployment compensation] to individuals employed by private companies between or within terms is neither prohibited by nor conflicts with Federal law." The converse is also true, as I understand your office agreed during its August 15 telephone call with our staff; Federal law permits (but does not require) states to apply between and within terms denials of unemployment compensation to employees of private companies who perform services for educational institutions. It is my understanding that other States have reached the same conclusion and have implemented policies to that effect.

In short, a reasonable interpretation of Georgia's unemployment compensation statute permits the denial of unemployment compensation for summer breaks and other school vacations to all

Gay Gilbert
September 4, 2012
Page 3 of 3

educational workers—rather than only those paid directly by schools, school boards, or nonprofits—and does not conflict with federal law in that respect or otherwise. I assure you that the Georgia Department of Labor is committed to interpreting and enforcing Georgia law appropriately and in conformance with federal requirements, and will continue to do so.

As the Rule amendment is a reasonable interpretation of Georgia law, and in the absence of any conflict with federal law, we respectfully request reconsideration of the position taken by USDOL in your letter of August 2, 2012.

Sincerely,



Mark Butler
Commissioner
Georgia Department of Labor

cc: Governor Nathan Deal
Attorney General Samuel Olens

Appendix 7: US DoL letter to GA Governor Nathan Deal

U.S. Department of Labor

Assistant Secretary for
Employment and Training
Washington, D.C. 20210

JAN - 2 2013

The Honorable Nathan Deal
Governor
206 Washington Street
Suite 203, State Capitol
Atlanta, Georgia 30334

Dear Governor Deal:

In follow up to a call I had with your staff last week, I want to make you personally aware of an issue related to the administration of Georgia's Unemployment Compensation (UC) program. As I think you may know, the Department sent a letter to the Commissioner of the Georgia Department of Labor (GDOL), Mark Butler, on August 2, 2012 (in response to a May 30, 2012 letter from GDOL) indicating that Georgia Rule 300-2-9.07 concerning denial of UC between and within academic years or terms to bus drivers and certain other workers employed by private companies under contract with educational institutions and school districts in the state created an issue with Federal UC law. Subsequently, Commissioner Butler responded on September 4, 2012, providing additional legal rationale and authority to promulgate the regulation. All three letters are attached for your reference.

While we have not yet responded to Commissioner Butler's September 4th letter which provided us with a new argument justifying their action, we are not persuaded by the new legal analysis. Georgia Code Section 8-196(a) cross references two sections; § 34-8-35(h) covering governmental employment, and § 34-8-35(i) covering non-profit, religious, educational and charitable employment. While the latter section does include the term "other organizations," that section was enacted in 1971 to comply with a new federal requirement that mandated the extension of UI coverage to religious and non-profit charitable institutions. The term "other organizations" must be interpreted in light of that history and purpose as well as in the context of the other non-profit entities identified in the provision. Moreover, there is no reason to construe the term "other organizations" to broadly include private sector employers, because such employers were already covered under existing provisions of Georgia law. The fact that § 34-8-35(i) further cross references § 34-8-33, the statutory provision that includes all the various definitions of employer covered by Georgia Unemployment Insurance (UI) law, is also unpersuasive. Section 34-8-35 was added to the Georgia code by amendment in 1971. The same amendment added a new subsection to § 34-8-35. The new subsection (a)(4) added "religious, charitable or educational" to the definition of employer for purposes of UI coverage. Thus while the reference to § 34-8-33 in § 34-8-35(1) may be ambiguous on its face, the timing of the enactment of both provisions indicates that the legislature intended the reference to be to the newly added subsection (a)(4) in § 34-8-33.

My staff alerted Commissioner Butler recently that it may be necessary for the Department to take steps to ensure Georgia is not out of conformity with Federal law. We hope to work with you and Commissioner Butler to avoid moving to formal proceedings. We would be happy to

discuss this issue further with you, your staff, and/or Commissioner Butler. Please let us know if you have any questions.

Sincerely,

Jane Oates
Jane Oates
Assistant Secretary

Appendix 8: Final US DoL letter to GA Labor Commissioner

U.S. Department of Labor

Assistant Secretary for
Employment and Training
Washington, D.C. 20210



APR 02 2013

Mr. Mark Butler
Commissioner
Georgia Department of Labor
148 Andrew Young International Boulevard, NE
Suite 600
Atlanta, Georgia 30303

Dear Commissioner Butler:

I regret to inform you that it may become necessary for me to recommend to the Acting Secretary of Labor (Acting Secretary) that he commence conformity proceedings against Georgia to determine if your state's law meets the requirements of the Social Security Act (SSA).

Section 303(a)(1), SSA requires that state law provide for "such methods of administration ... as are found by the Secretary of Labor to be reasonably calculated to insure full payment of unemployment compensation when due[.]"

In the letter from Administrator Gay Gilbert to you on August 2, 2012, we explained that there is no valid statutory basis in Georgia law to deny unemployment compensation (UC) between and within academic years or terms to bus drivers and certain other workers employed by private companies under contract with educational institutions and school districts in the state. We noted that the regulation found in amended rule 300-2-9.07 applying between and within terms denial provisions to individuals in the employ of private employers is inconsistent with your statute and creates an issue with the payment "when due" requirement.

Subsequently, you responded on September 4, 2012, providing additional legal rationale and authority to promulgate the regulation. In my letter to Governor Nathan Deal on January 2, 2013, I noted that we are not persuaded by the new legal analysis provided in the letter and offered to work with you and the governor to avoid formal conformity proceedings, but I have not received any response.

As is the case for all other states, the Acting Secretary is responsible for assuring that Georgia law satisfies Federal law requirements in order for your state to be certified as eligible for administrative grants under Title III of the SSA. Absent this certification, Georgia's Title III administrative grant would be withheld and it could also result in withholding of grants to Georgia under the Wagner-Peyser Act, and possibly termination of the agreements under which the state administers the Federal UC programs: Unemployment Compensation for Ex-Servicemembers, Unemployment Compensation for Federal Employees, Trade Adjustment Assistance, Disaster Unemployment Assistance, and Emergency Unemployment Compensation.

In order for me to hold in abeyance a recommendation to the Acting Secretary that he commence conformity proceedings on this issue, your state must immediately conform to the requirements of Section 303(a)(1), SSA, pay UC to those individuals who have been improperly denied, and cease denying UC to individuals under amended rule 300-2-9.07.

My recommendation to the Acting Secretary that he commence conformity proceedings under Section 303(b), SSA, and 20 CFR. 601.5(a), and provide your state with an opportunity for a hearing, will be made on the 30th day after the date of this letter, unless we receive confirmation that your state has taken action to resolve satisfactorily the issue discussed above. This is the final opportunity for Georgia to take corrective action before I recommend commencement of conformity proceedings. We remain willing to work with Georgia by providing information and assistance to resolve the issue and avoid the serious consequences of conformity proceedings.

If you have any questions regarding this matter, please contact Ms. Gay Gilbert, Administrator for the Office of Unemployment Insurance, at (202) 693-3029 or Gilbert.Gay@dol.gov.

Sincerely,


Jane Oates
Assistant Secretary

cc: Eugene Caso
Acting Regional Administrator
Atlanta