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# The GAVEL

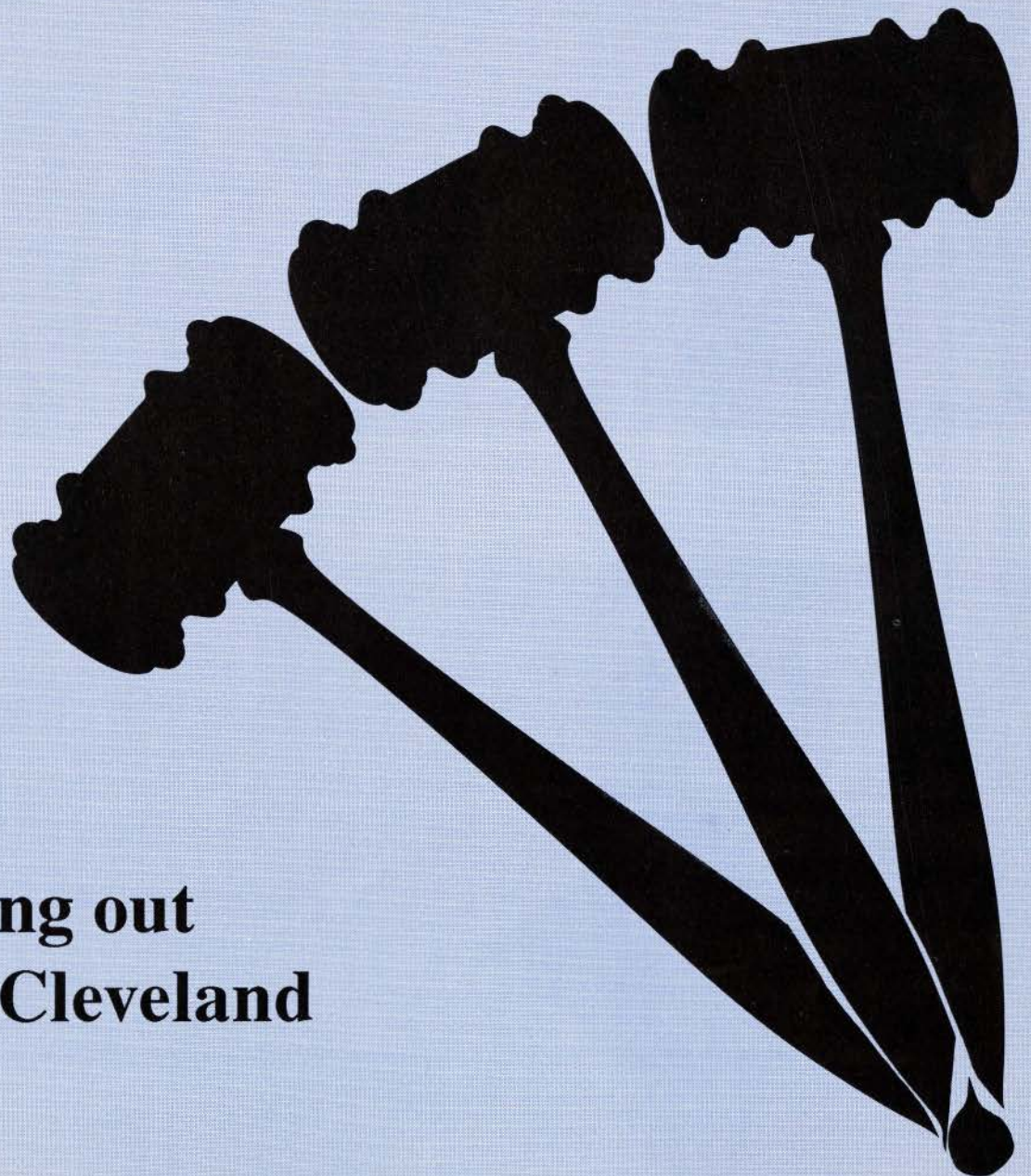
Cleveland-Marshall College of Law

Volume 38

Issue 3

December, 1989

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**Hammering out  
justice in Cleveland**



## Editor's note

Cleveland-Marshall College of Law. It's growing. Applications and admissions are on the rise. It's dynamic. Moot Court teams are nationally-ranked. Faculty is excellent, and are very active in the Cleveland legal community. Many faculty members have even argued before the U.S. Supreme Court. This all sounds great, but something is wrong.

C-M students taking the July '89 bar exam passed at a low 79% -that's 82% of the first-timers and only 65% of the repeat test takers. The 79% overall pass rate for C-M won us another title to put in the trophy case- "LOWEST OVERALL BAR PASS RATE IN OHIO." True, we are tied with Dayton for the title, but we do hold a lock (at 82%) on the prize for lowest first timers (Akron and Dayton are close behind at 84%). Our best showing is a sixth place (65%) for test repeaters; OSU and Dayton tied at 50% for the lowest in this category.

OSU and Cincinnati hold the top spot for the first time pass rate (97%), while OSU took top honors for the best overall pass rate, 96%. Our crosstown friends at Case pulled out a 93% first time pass rate, and an 80% repeat pass rate, to chalk up a respectable 92% overall, third in the state.

What are we doing wrong? We're all taking the same bar review courses. Maybe we need to realize that we are here to learn, and stop worrying about where we'll be working next summer, how much we'll make, and if it's a better job than the next person has. Just because the first year is over (the toughest year, we're told) doesn't mean we can coast through two years of skipping classes, and expect to ease out of the bar exam with a passing score.

We only get out of law school what we put into it, and if we're concentrating on how much money we want to make, instead of what we're supposed to be learning, we'll never break even. Perhaps when there's as much participation in the learning process as there is in front of the TV when the Browns are playing, C-M's bar pass rate will rise.

## The GAVEL

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Any interested students, including first-year students, are encouraged to become involved. The Gavel office is located in room 23, near classroom 12. Stop by, someone is usually in the office. Or put a note in the envelope on the door.

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# Book makes good holiday reading

## Literary look

By Patrick Corrigan

A small paperback book entitled *Sometimes God Has A Kid's Face* came in the mail this month. After spending weeks delving into the mountain of law school drudgery, I threw aside my texts in favor of the cheap paperback. The subtitle of the book forewarned me of the gravity of the topic: The story of America's exploited street kids.

The book, written by a man who fell into the ministry of loving the lost children who wind up America's most despicable corners, cries out for your attention. Bruce Ritter is the author. He starts one of his chapters describing the children: "Linda was 11, still a virgin, when her pimp took her. Peter was dancing on bars when he was 16. Martha was 14 when her pimp dyed her hair, got her a phony ID, and put her to work in a massage parlor. Tony was only 15 when he finally fled, in terror, Paul Abrams' call boy service. Annie was still only 15 when her pimp went to her mother's house in upstate New York, waited until her mother left for work, and took a very unwilling Annie back to life on the street and near death."

Ritter is a Catholic priest who lives on the Minnesota Strip in Manhattan. He describes his home as "a sick, festering pus-filled boil of a place where the corruption and violence and exploitation of a diseased society burst into the open." His writing is not terribly artful, but it is his intent to awaken and inspire. The partially autobiographical story offers a close look at the lives of runaway and throwaway children who end up hustling their bodies for sex in order to survive.

Ritter weaves into his book interesting and sometimes hopeful vignettes about the horrid lives led by the kids on the street. One chapter tells of two brothers and a sister who ran away: "A lady should never get this dirty," she said. She stood there with a quiet, proud dignity. She was incomparably dirty - her face and hands smeared, her clothes torn and soiled. The lady was 11. "My brothers are hungry," she said. The two little boys she clutched protectively were 8 and 9. They were two of the most beautiful children I've ever seen. Our parents beat us a lot," she said. "We had to leave." The boys nodded dumbly. "We had to leave," one of them echoed. The children did not cry. After living in the street for two weeks they did not cry. I struggled to manage part of a smile...."

But for Bruce Ritter's Covenant House, which offers safe space for such kids, it is most likely that those three children would have been devoured by the sex industry of New York City.

He tells of finding jobs and scholarships for some of the kids, and of loving them when they least deserve it. He does not ignore the fate of those who do not respond to his ministry - murder, suicide, aids and drug addiction.

Father Ritter describes his spiritual journey as it evolves through wrestling with the wicked reality of his ministry. He disdains, yet acknowledges that he must forgive, the pimp across the street who donated money the Covenant House and then resented it when Ritter sent the money back. He recounts the haunting memory of the night he turned two kids away into the cold, telling them that they could go out into the street and look sad. He has not forgiven himself for that blatant failure to be charitable... those kids never returned. His principles do not allow him to turn kids away anymore.

*Sometimes God Has A Kid's Face* is compelling reading. The ministry of Covenant House is a brave and positive response to the evil which preys on the young. Father Ritter invites all of us to reach out. The Covenant House ministry offers the opportunity for volunteers to spend a year living and working with the Covenant House community. There are many of these communities throughout the United States and Central America. Doctors, lawyers, students, and people of all creeds have taken up the offer to help.

Perhaps in the holiday season we can look beyond our own celebrations and make a donation to help support Covenant House. For a \$5.00 donation, you may receive a copy of the book. Write to Covenant House, JAF Box 2973, New York, NY 10116-2973



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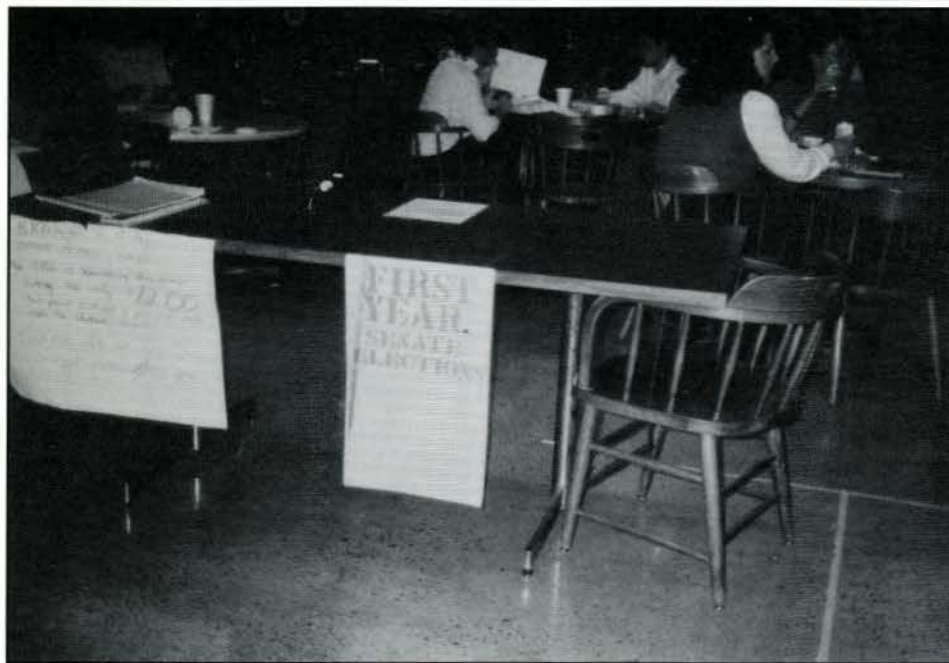
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*The first-year SBA election table remains unmanned during elections. The senator in charge was unable to access the ballots from the locked SBA office*

## SBA has a closed door policy

While the rest of the world is opening its borders, the C-M SBA president is maintaining a closed door policy.

During the senate's November 11, 1989 meeting, second-year day Senator Sin Kim stated that students were concerned about accessibility to the Student Bar Association's office. Third-year students and senators recalled that the office was easily accessible during previous years. However, during first-year elections this year the polls opened late because the senator in charge could not get the ballots from the office.

According to several senators in attendance, SBA president Sherri Goodman told the Senate that the SBA office would not be left open to senators since there were valuables in the office. During the discussion, Goodman con-

tinually referred to the SBA office as "my office." Senator Todd Bartimole disagreed with Goodman's policy stating that students elected by the student body should be trusted. Bartimole also said Senator must conduct business and monitor student concerns. Several senators agreed.

Goodman maintained that the office is not going to be open for senators. The president did state she would try to set hours when officers were present to allow the senators access. According to two senators, who wished not to be identified, a general dissention is growing in the senate. Goodman could not be reached for comment.

## ELECTRIC BEACH



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## Alternative career symposium held

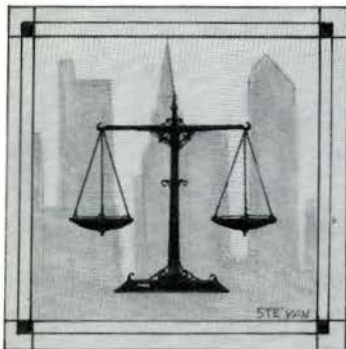
**By Dawn Adair Johnson**

On October 27th, C-M held the Alternative Legal Careers Symposium in the Atrium. Several national and local agency representatives were available for informal discussion. This gathering was an opportunity for students to learn about these organizations:

Of special note, Professor Thomas Buckley, the current President of the ACLU of Cleveland, presented information about his organization.

Many students had an opportunity to discuss possible career alternatives with many organizations such as the Legal Aid Society of Cleveland and the Environmental Protection Agency. There were 14 organizations represented at the symposium. Organizer Richard Boger hopes that this will become an annual event to enable students make an informed career decision.





## Bar president visits C-M

By Dawn Adair Johnson

Robert A. McCarthy, the current president of the Ohio State Bar Association, visited Cleveland-Marshall on October 4th to discuss with students and faculty the benefits of being a member of the Association. Also in attendance was Kathy Burke, the Executive Committee Representative from district 12, which covers Cuyahoga County, and two of the editors of Ohio Lawyer. The Ohio State Bar Association is a non-profit, voluntary organization of over 21,000 Ohio attorneys, or about two-thirds of the practicing attorneys in the state.

In his luncheon address Mr. McCarthy spoke about the opportunities that are available through membership in the association. One such is the receipt of the weekly "green book" which contains the weekly decisions of the Ohio Supreme Court, the reported appellate decisions, the legislative letter, a calendar of continuing legal education opportunities, and job and office space classified. The association also publishes Ohio Lawyer, a monthly magazine containing articles of general interest to Ohio practitioners.

Membership also gives members special rates on health, life and disability insurance. The bar also sponsors Ohio Bar Liability Insurance Company (OBLIC) which provides malpractice insurance to its members. The bar also has 37 separate committees that deal with, among other areas of interest, legislation, continuing legal education and the high school mock trial program.

Dean Smith also addressed the group of students briefly to underscore the importance of belonging to a bar association as a way to regulate and improve upon the profession as a whole.

If anyone is interested in joining the Ohio State Bar Association, please see Dean Lifter for an application.

# Finding justice in Cleveland

By Christina Janice

A crime occurs in Cleveland, Ohio. You are the victim. You call the police and they arrive- eventually. They take a report. If your case is like most, there are no swarms of blue uniforms and no arrests. Instead, you are told to go to the Prosecutor.

Last year, 15,000 citizens filed criminal complaints with the Office of the City Prosecutor. Out of that number, about 20 percent of those complaints resulted in warrants being issued. Eighty percent did not result in arrest warrants. Eighty percent. Is there something wrong with 'The System'? Why are so few warrants issued?

In the bygone days of criminal justice, a citizen with a complaint went to the Prosecutor's Office and "took a number." Prosecutors would issue warrants where they found probable cause, and would dismiss all other complaints. Most complaints were dismissed before they ever began, and that was the end of it. No warrant- no satisfaction, and the victim went home. Little wonder how the public came to be so cynical about the cold and impersonal and indifferent system; where the wheels of justice turned slowly, if they turned at all.

But the bygone days are over and The System has changed. The 15,000 citizens who filed complaints last year did not go to the Justice Center to take a number and wait for a day or more to see a Prosecutor. Instead, they checked in at the Prosecutor's Office and, within a few minutes to a couple hours, they each found themselves sitting across a desk from a representative of the Prosecutor's Office, officially titled a 'Mediator'.

This Mediator took the complaint and asked questions about the incident. Perhaps the Mediator went down to the Cleveland Police Crime Reports Unit to find the police report, or sent the complaining citizen, called the 'complainant', to the Police Photo Lab for pictures of any visible injuries. Perhaps the Mediator made phone calls to gather more information about the complaint, or to contact witnesses.

If the complaint involved a felony, the Mediator referred the citizen to the appropriate police district's detective division. If the alleged suspect was a juvenile, the Mediator referred the

complaint to the Cuyahoga County Juvenile Court. If the complaint was not criminal but civil, the Mediator referred the citizen to the appropriate courts and agencies: Small Claims, Eviction Court, Domestic Relations, the Office of Consumer Affairs, or to a private attorney.

If the complaint belonged in the City Prosecutor's Office, the Mediator compiled as comprehensive a file on the complaint as possible, based on the interview, police reports, phone calls, hospital reports, etc. The Mediator then explained to the citizen his or her options: the citizen could seek a Prosecutor's issuance of an arrest warrant and a criminal complaint, or the citizen could opt for an out-of-court, Mediation hearing for the parties. The Mediator explained that the municipal courts in Cleveland have a heavy docket and a trial could take over 100 days and multiple appearances by the citizen and witnesses. The Mediator explained that a criminal trial will not result in the award of damages paid to the victims of crime. And the Mediator explained that, if conviction was obtained, the defendant still might only get probation instead of jail time.

Then the Mediator explained the alternative that few citizens know about unless they have filed criminal complaints in Cleveland since 1982: the Mediation hearing.

The Mediator explained that the hearing is an out-of-court, private proceeding where the complaining citizen could ask for monetary compensation, repair of damaged property, return of stolen or retained property, arrangements for keeping the parties apart or, if they have frequent contact, the regulation of their interpersonal contact. The Mediator explained that no party who cooperates in the hearing process gets jail time as a result of the hearing, and that the charge for which the hearing was held does not become a part of anyone's record. The Mediator explained that the hearing required no witnesses, no lawyers, and no jury or bench determinations of fact or guilt. Finally, the Mediator explained that if the hearing settlement was broken or the respondent failed to appear, the citizen might have the case reviewed by a Prosecutor for the possible issuance of a warrant and complaint at that point, or the citizen could reschedule another hearing.

(Cont. to page 7)



# Gavel awarded

The Gavel upheld its winning tradition by taking second and third place honors in the American Bar Association Law Student Division newspaper contest.

The competition judged the Gavel second in overall magazine reporting over last year for ABA-approved law schools with more than 700 students. The previous year the Gavel was awarded first-place in overall reporting. The Gavel also received third-place for a feature article on substantive law. During the previous year, the Gavel placed third for an article on substantive law.

The magazine places credit on its success with the students and faculty of C-M. "The students here are great," says Gavel editor Greg Foliano. "The ones we are able to get involved write very well and care what is going on at Marshall. Dean Smith and the faculty are also helpful and in tune with the issues affecting this school and the community."

The contest, which is held annually, was meant to recognize outstanding efforts of law school journalists during the 1988-89 school year. According to the ABA, all law school newspapers from ABA approved schools were eligible. The Justinian from Brooklyn Law School placed first ahead of The Gavel in overall reporting; The Law Forum of the University of Baltimore placed third. The competition had nine different categories of awards, with each category divided into two classes. Class A is competition among law schools with less than 700 students, while Class B is among schools with more than 700.

The publication of The Gavel began in 1951. It is normally published seven times a year and the circulation is approximately 850.

According to the editors, The Gavel is always looking for new writers. "It is something anyone can do, it looks good on a resume and most importantly, it is fun," Foliano said. "Gavel

writers get the chance to find out what is going on behind the scenes of Marshall."

Foliano is in his second year as a Gavel editor. The other editors who presided over last year's award-winning staff were Doug Davis and Dave Przeracki. This year's editors, in addition to Foliano, are Tom Goodwin and Christina Janice.

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# Criminal justice in Cleveland

(Cont. from page 5)

The Mediator then asked the citizen which way he or she wanted to go: in court, or out of court. After the citizen voiced a preference, the Mediator went to a Prosecutor for a final determination of the case. After a technical explanation of the complaint, the Prosecutor chose whether to issue a warrant, to return the case to the Mediation staff for a hearing, or to take some other action. If the citizen asked for Mediation, the Prosecutor respected that choice. If the citizen asked for a warrant, but the Prosecutor was unable to find probable cause, the Prosecutor returned the case for Mediation, perhaps with the possibility of a later review to issue if the respondent failed to appear at the hearing. Otherwise, and in far fewer cases, the Prosecutor dismissed the complaint.

If the complaint was one for domestic violence, the Prosecutor either issued a warrant, signed a motion for a temporary protection order for the victim, and obtained a signed consent form from the victim, stating that the victim cannot drop the case, or the Prosecutor returned the case for a specially modified 'D.V.' Mediation hearing, and obtained a signed waiver from the citizen, stating that the case can be reconsidered for a warrant at a later time.

After the Prosecutor ruled on the case, the Mediator returned to the citizen to explain which option or options the Office of the Prosecutor would offer for that case. The final decision to accept the offered remedy then belonged to the citizen. If the decision was to issue a warrant, the Mediator provided the paper work and instructed the citizen to present him or herself to the Warrant Unit to obtain a warrant number, and then to sign and swear to the complaint at window 10 of the Clerk of Courts Office.

If the decision was to hold a Mediation hearing, the Mediator scheduled the date and time of the hearing and explained what, if anything, the citizen needed to bring. Then perhaps the Mediator sent the citizen to the Witness/Victim Service Center on the first floor of the Justice Center, where a W/V staff member could walk the citizen through the processes, or make legal, medical, or social service referrals.

At the end of this process, the citizen was sent through the channels appropriate for his or her case, be it criminal, civil, domestic, a felony, a misdemeanor, none of the above, or any combination of categories. In most cases, the citizen never saw the person of a Prosecutor. The Mediator was the citizen's physical tie to the

Office. But this did not mean that the Prosecutors were insulated. Instead the functions of the Office of the City Prosecutor were streamlined by the addition of the new tier of Mediators between the citizen and The System. Mediators did the ground work of the cases, freeing the Prosecutors to make determinations of probable cause and to pursue the cases issued upon into the courtroom.

Out of the 15,000 criminal complaints last year, 20 percent resulted in warrants. The other 80 percent were scheduled for Mediation. Of that 80 percent, one-half had full hearings and the other half were referred to a more appropriate agency or court. Of the hearings held, 87 percent resulted in a settlement between the parties.

Assistant City Prosecutor Andre A. Craig has been Director of Mediation since its inception as an experimental program in 1982, and has continued as its head since the permanent addition of Mediation to the Office of the City

Prosecutor in 1985. Craig notes that the changes in the City Prosecutor's Office has improved City's criminal justice process. With 18 prosecutors and 35 Mediators, most of whom are law students in contrast to the laymen used in other programs across the country, the office now has the capacity to handle more complaints than ever and has been able to reduce the caseload in the municipal courts, reduce the already overburdened need for temporary jail space, and provide alternate remedies for citizens which previously were not available.

When a crime occurs in Cleveland, it is not like television. There are no 52 minute solutions. A citizen sent to the Prosecutor's Office is unfamiliar with, and intimidated by, 'The System'. But The System is changing nationwide as other big cities adopt Mediation and other similar 'diversion programs' to keep up with crime trends in the '80s and '90s, and grease up the wheels of justice to turn just a little faster, and a little more efficiently.

## Scholarship program is announced

Cleveland-Marshall students involved in community service or volunteer activities are eligible to apply for a \$5000 scholarship recently funded by Perkins Family Restaurants in Ohio. Perkins is awarding five scholarships to qualifying Ohio residents or college students. Applicants must be enrolled in a college, junior college, university, state technical institute or medical school in Ohio or be a high school senior planning to attend any of the aforementioned; be a resident of Ohio or attending an Ohio school; and have a GPA of 2.5 or be in the upper 40% of their class, if in high school.

Applicants will be judged on the amount and variety of their personal involvement in volunteer or community service activities, along with their ability to create, organize and execute volunteer activities and opportunities for others to benefit from such activities. Judging will be done by a selection committee composed of several franchisees of Perkins Family Restaurants and members of Governor Richard F. Celeste's "Call to Service Council."

Payment will be made directly to the school where each winner attends. Funds are for tuition, room, board and books. Any excess funds can be rolled over to the next academic year.

Interested students should quickly obtain an application form any Ohio Perkins Family Restaurant or by writing the Governor at: Office of the Governor, 77 High Street, Columbus, Ohio, 43266-0601. Applications must be received or postmarked by January 31, 1990. Winners will be announced March 15, 1990.



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