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National Center for the Study of Collective Bargaining in Higher Education and the Professions

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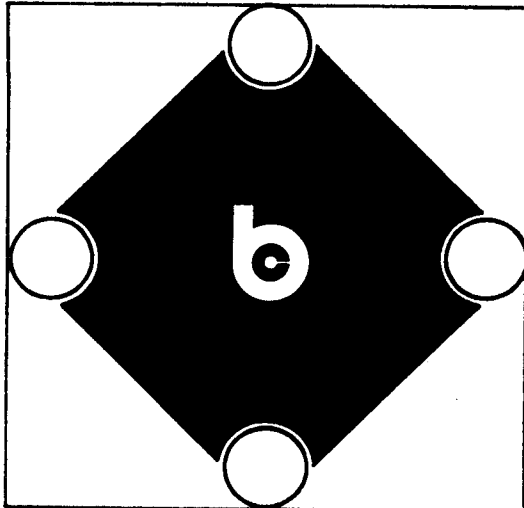
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NEWSLETTER

Volume 6, Number 3

July/August 1978

THE NATIONAL CENTER FOR THE STUDY OF
COLLECTIVE BARGAINING IN HIGHER EDUCATION



Highlights of This Issue

The Impact of Campus Bargaining

Alternatives To Faculty Unionization

The Mediator in the Negotiation Process

Among the Recent Publications

Newsworthy Events

Contract Update

PUBLISHED FIVE TIMES A YEAR AT BARUCH COLLEGE,
CITY UNIVERSITY OF NEW YORK, 17 LEXINGTON AVE,
NEW YORK, NEW YORK, 10010. TELEPHONE 212 725-3390

THE IMPACT OF CAMPUS BARGAINING

Compared with a two-century history of general unionism in the United States, university collective bargaining which post-dates World War II is still in its infancy. But time has been telescoped. For one thing, it is possible to recognize that collective bargaining is a permanent fixture on the campus. Indeed, certain patterns have already taken shape, and one can begin to discern permanent effects on academic life.

Four noted scholars, working under the auspices of the Higher Education Research Institute, have assembled noteworthy data for the negotiator, no matter which side of the table he sits at. (J. Victor Baldridge, David V. Curtis, George Ecker and Gary L. Riley, Policy Making and Effective Leadership, Jossey-Bass Publishers, San Francisco, 1978)

Their study provides a clear description of what has happened since unionization matriculated in a sizeable section of the American academy. Based on a carefully formulated questionnaire that examines the newly emerging patterns of

academic management, governance and leadership, the book throws light on the uncertain path ahead.

Locus of Power The authors find a notable shift in the center of decision making on the campus. External authorities -- legislatures, state regent authorities, public officials -- are intervening more directly in the public institutions because of fiscal severity, with a ripple-out effect on the private institutions. Union organization, a persona not necessarily identical with the immediate membership on a given campus, is a new intervenor. Student pressures, while only minimal as compared with the situation in the 1960's, still loom in the background.

The issues of affirmative action have tended to make the courts another proctorial presence on the campus -- a trend already initiated by the fact that unionization emphasizes contractual rights as against traditional collegial privileges and duties. Among the third parties whose features are becoming more familiar in the

corridors of academe are the arbitrator and the mediator.

If power -- or more specifically, governance authority -- is viewed as a zero-sum game, it is too soon to tell who has lost and who has gained most -- faculty senates? presidents? boards of trustees? students? faculty unions? outside third parties like the courts and arbitrators? Shifts of power, however, are clearly occurring, determined in a given case by the economic pressures in society, political influence, strength of faculty organization, administrative wisdom and experience, community climate, etc.

In the light of developments that have occurred in the past decade or so, and on the basis of the survey of administration and faculty opinion, the authors have arrived at a series of conclusions about the impact of collective bargaining that can be summarized under these headings: (a) administrative impact; (b) dealing with outsiders; (c) faculty benefits.

Administrative Impact Presidents in state systems believe that unionization has diminished their authority and that they are involved in a "two-directional power loss -- to unionized groups and to central headquarters."

But the authors assert that "despite the presidents' feelings of vulnerability, evidence indicates that there is actually a shift toward greater administrative power." Within colleges, they say, more and more decisions are forced upward, away from departments to the central college administration.

One effect of the advent of collective bargaining is that administration now finds it must rely increasingly on a new type of personnel, who are sometimes given dean status. Labor relations specialists, lawyers, institutional researchers, personnel administrators who can rationalize procedures, become important. On the other hand, lower level administrators have to be retooled so that they can master the problems of advising or participating directly in negotiations or in the administration of the contract.

Dealing with Outsiders The elitism of the academic world -- the assumption that all matters can and should be resolved "within the lodge" -- suffers a major blow. Assertions of academic principles lose authority when the academics must justify

their positions to third parties.

This is produced in part by the fact that new power blocs are formed once collective bargaining is initiated. "Campuses are increasingly balkanized into 'veto groups,' and administrative discretion to respond to campus problems is increasingly circumscribed by contractual provisions, particularly in personnel areas." When internal governance is fragmented, outsiders become more essential as mediators.

A realignment follows from the emergence of distinct group interests discovered by junior faculty as against seniors, full-timers against part-timers, teaching staff against non-classroom personnel. On the basis of survey results, the authors offer this conclusion, likely to be controverted by many administrators and union representatives:

"One of the most interesting aspects of this shifting political scene is the position of the administrators. It is clear that their lives will be enormously complicated and more harried when faculty members unionize. But it is also clear that many decisions that formerly were made in faculty committees will now be pressed upward into the controlling hands of the administrators. In short, it seems likely that administrators will have more power because of faculty unionization but will have a harder time using it." (P.172)

Faculty Benefits The authors seem to be quite sanguine about the economic benefits faculties will receive from unionization. They argue that unionization is a natural response to the current financial stress. But their acceptance of this view seems to be based on the fact that those responding to the questionnaires so indicate. Everett Ladd and Seymour Martin Lipset, however, have concluded on the basis of their data that more faculty members reason this way than vote affirmatively in representation elections.

Nevertheless, Baldrige et al. are convinced that unionization will bring "greater procedural protection for faculty promotions and tenure, less arbitrariness about administrative decisions, more job security and protection for nonteaching professionals, and greater economic security in general -- all are more likely with unions than without."

The evidence would seem to be quite

clear that where faculty governance has been weak unions gain ground by promising stronger faculty participation in decision making. This view is confirmed by other studies. (See Everett C. Ladd, Jr. and Seymour Martin Lipset, Professors, Unions and American Higher Education, Carnegie Commission on Higher Education, Berkeley, Calif., 1973, pp. 20-23.)

The authors assert, finally, that the injection of faculty unionization into the politics of academic life will complicate

decision making and will constitute "a potential veto to beneficial organizational change." The problem, as they see it, is more red tape and concentration of control. "Whether the benefits outweigh the costs is a delicate question," they write. "Although its long-range effect is still largely unpredictable, the impact it has already had means that, for better or worse, academic governance will certainly never be the same."

ALTERNATIVES TO FACULTY UNIONIZATION

A traditional management policy in non-unionized enterprises is to revise personnel procedures either on the assumption that unionization can be staved off or on the premise that if it does come management will be better prepared to cope with the inevitable changes.

How such steps were taken at a major university in the Northeast was described by Sidney Herman at the 1976 Annual Conference of the National Center. (See "Faculty Grievance Procedures in a Non-Union Context," in Collective Bargaining in Higher Education, Proceedings of the Fourth Annual Conference, April 1976, National Center for the Study of Collective Bargaining in Higher Education, pp. 28-35.)

A broader study, examining all of the issues considered relevant to the campus, has now been completed as a doctoral dissertation entitled Alternatives to Collective Bargaining: A Study of Private Colleges and Universities by Marc Allen Rabinoff, available from University Microfilms International, Ann Arbor, Michigan, 48106.

Economic Issues The author offers an alternative model built around such major economic issues as --

Salaries and merit pay;

Faculty opinions and expressions;
Decision-making policies;
The welfare of the institution.

His principal recommendation in these matters is to enlarge faculty input before the chief academic affairs administrators act.

Job Security Problems of promotion, tenure, appointment, grievance procedures and due process are examined. Some of the recommendations under this heading go far beyond what any union would reasonably expect to win at the bargaining table -- for example:

"Let the faculty resolve the tenure issues without administrative intervention ... Never compromise due process procedures ... Let the faculty in the department concerned make the selection of new faculty members."

While there will be considerable disagreement with the author's conclusions, most of which seem to be a mechanical transfer of "participatory management" theory to the academic setting, non-union institutions may find it useful to examine the tabulation of issues as drawn up by the author. The data provide a method of reviewing current practices in the institution.

THE MEDIATOR IN THE NEGOTIATION PROCESS

An assumption, not necessarily true but worth pursuing, is that academics on both sides of the bargaining table are more likely to respond to reason than their counterparts on the industrial scene. To be successful, precepts for paving the way

to agreement (see "To Achieve a Meeting of the Minds," National Center Newsletter, April/May 1978, Vol. 6 No. 2, pp. 1-5) may often require the intervention of a mediator.

Unlike the arbitrator, he has no power to render a decision or bind the parties who have called him in. His contribution depends entirely on his personal skills, his knowledge of the field, his persuasiveness, and the confidence the parties have in his judgement.

Presumably, academic negotiators have a background that would qualify them to behave like mediators themselves. But self-interest and deep-rooted emotion are bound to be present. Nevertheless, even if the individuals cannot escape their own partisanship, their understanding qua academics should help them facilitate the functioning of a third party who has been invited in to mediate.

Mediators' Tactics Dr. Julius J. Manson, professor emeritus of management, Baruch College, a founding member of the National Center, and now a member of the New York State Mediation Board, has provided an insider's view of the mediator's role. Dr. Manson stresses that in the early stages "the mediator mainly listens," adding wryly, "He may be the only one doing so."

But the mediator is not passive. "Sifting fact from figment, he distinguishes the chief areas of disagreement." He does not hurry; patience is one of his major contributions. "The capacity to outsit the parties often solves the problem. If the mediator sits long enough, both sides may sufficiently exhaust each other and be willing to accept what the mediator suggests."

The Conciliator Each of the parties, of course, is interested in winning. The mediator is interested in achieving a reconciliation of interests, not the triumph of one over the other. Dr. Manson quotes the distinguished Fabian authors, Sidney and Beatrice Webb, to describe the function:

"The conciliator adds...a happy suggestiveness and fertility in devising possible alternatives. Throughout the discussion he watches for the particular points to which each party really attaches importance.

"He has a quick eye for acceptability of compromise. At the right psychological moment, when discussion is beginning to be tedious to both sides, he is ready with a form of words.

"This is the crisis of the proceedings. If the parties are physically and mentally tired and yet pleased with themselves and no longer angry with their opponents; if the conciliator is adroit in his drafting and finds a formula which, while making mutual concessions on minor points, includes, or seems to each party to include, a great deal of what each has been contending for, the resolution will be agreed to if not by acclamation, at any rate, after a few minor amendments have been made to save the dignity of one side or the other."

The emphasis has been added, but note the significance of the words that are underlined. They are the elements with which the mediator -- or the parties themselves -- can perform the conjuring trick that ultimately results in agreement.

The Trade-Off By and large, negotiators do come to the bargaining table with an understanding that they must give as well as take, that they must be prepared to retreat too if there is to be motion. They must pay a price for getting what they consider to be essential to their own immediate or long-range interests. The test of "a good price" is not only what you get but whether the "battle" itself has been healthy. And that depends on the answers to these questions:

1. Did the debate open up new and better alternatives that nobody had thought of before?

2. Did the adversaries learn from the discussions that their actual differences were exaggerated and that the personal antagonisms, if any, were unwarranted?

3. Regardless of the outcome on specific issues, did the parties use the negotiation to create a more wholesome long-term relationship in which the interests of faculty, administration and students can be better served?

AMONG THE RECENT PUBLICATIONS

Angell, George W. Legislatures, Collective Bargaining and the Public University. Monograph #4. Washington, Academic Collective Bargaining Information Service (1978).

Baldrige, Victor et al. Policy-making and Effective Leadership. San Francisco, Jossey-Bass, 1978

Hankin, Joseph N. Negotiating a Better Future; Planning and Organizing for Collective Negotiations in Community and Junior Colleges. Washington, American Association of Community and Junior Colleges, 1977.

Lee, Barbara A. The Effect of Faculty Collective Bargaining in Academic Governance at 4-year Colleges and Universities. (Paper presented at American Educational Research Association Meeting, Toronto, Ontario) March, 1977.

Leslie, Larry L. and Teh-Wei Hu. The Financial Implications of Collective Bargaining in Higher Education. University Park, Center for the Study of Higher Education, Pennsylvania State University, Sept. 1977.

Mensel, R. Frank et al. 1976-77 Administrative Compensation Survey. Washington, College and University Personnel Association, 1977.

Mortimer, Kenneth P. and T.R. McConnell. Sharing Authority Effectively. San Francisco, Jossey-Bass, 1978.

Newhouse, Wade J. Public Sector Labor Relations Law in New York State. Buffalo, William S. Hein, 1978.

Rabinoff, Marc A. Alternatives to Collective Bargaining: A Study of Private Colleges and Universities Where Unionization Has Been Rejected. Ed.D. Dissertation, University of Houston, 1977.

Scott, Elizabeth L. Higher Education Salary Evaluation Kit. Washington AAUP, 1977.

Tice, Terrence N. Resources on Campus Governance and Employment Relations; 1967-1977. Washington, Academic Collective Bargaining Information Service, 1978.

NEWSWORTHY EVENTS

Higher Education Research Institute to study impact of faculty collective bargaining on higher education personnel policies, particularly tenure and retirement. (Ford Foundation)

Maryland General Assembly passed special bill to enable faculty at Montgomery College to choose bargaining agent, despite attorney general ruling that precludes faculty bargaining in absence of enabling legislation. ACBIS Fact Sheet 49, July, 1978.

New York Educators Assoc. (NEA) plans to challenge United University Professions (AFT) to become faculty bargaining agent for State University of New York's 32 campuses, (16,200 members). Higher Education Daily, June 5, 1978.

Non-faculty employees at Murray State University in Kentucky strike, picket for recognition. Gov't Employee Relations Report, 760: 26, May 22, 1978.

NLRB orders Catholic University of America to bargain with university's law school faculty union elected in June 1977. Higher Education Daily, 2, July 10, 1978.

Pima Community College, Arizona becomes first higher education institution in state to conduct representation elections for units of faculty and clerical, maintenance. NEA defeats AFT in faculty election, and AFSCME wins non-faculty. Gov't. Employee Relations Report, 760: 23, May 22, 1978.

Public 4-year colleges & universities may bargain with faculty unions but are not obligated to do so, Washington State court rules in Eastern Washington Univ. dispute. The Chronicle of Higher Education, 2, July 10, 1978.

University of Minnesota is first higher education institution in state to reject bargaining. (AAUP, AFT) Gov't. Employee Relations Report. 760: 23, May 22, 1978.

Update of Collective Bargaining Directory

The following data provide the latest addenda to the National Center's Directory of Faculty Contracts and Bargaining Agents issued in February 1978 and updated in each Newsletter.

New Bargaining Agents:

<u>Institution</u>	<u>Affiliation</u>	<u>2/4 Year Institution</u>
*Dowling College, NY	NYSUT (replacing AAUP)	4
Pima Community College, AZ	NEA	2
Santa Monica Community College, CA	Indep.	2

New Contracts Received at National Center:

			<u>Expiration Date</u>
Genesee Community College, NY	ACCF	2	6/80
Kent State University, OH	AAUP/NEA	2/4	9/16/80
Lane Community College, OR	NEA	2	6/30/79
Niagara County Community College, NY	Indep.	2	8/31/80
Pittsburgh State University, KA	NEA	4	7/31/79
*University of Bridgeport, CT	AFT	2	6/30/79
Westchester Community College, NY	AFT/NYSUT	2	8/31/79

No Agent Votes:

Michigan State University (AAUP, NEA) 4
North Orange County Community College, CA (NEA) 2

Correction

Our updating Faculty Contracts and Bargaining Agents in the April/May Newsletter indicated that Lakeland Community College in Ohio was represented by an Independent bargaining agent. We have since been informed that in January, 1978, the Lakeland Faculty Association voted to affiliate with NEA's Ohio Education Association.

INFORMATION AVAILABLE AT THE NATIONAL CENTER LIBRARY

The following data will be incorporated in the next Directory of Faculty Contracts and Bargaining Agents which will be published in January 1979.

- ...Size of Faculty Bargaining Units
- ...Date of First Elections
- ...Year First Bargaining Agreement was Signed

Should you require this information before its publication, please contact Molly Garfin at the National Center.

NATIONAL CENTER NEWSLETTER

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NEWSLETTER SCHEDULE

Members of the National Center will want to note that the publication schedule for the five issues of the National Center Newsletter in 1978 is as follows:

- Vol. 6, No. 1 -- January/February 1978.
- Vol. 6, No. 2 -- April/May 1978.
- Vol. 6, No. 3 -- July/August 1978.
- Vol. 6, No. 4 -- September/October 1978.
- Vol. 6, No. 5 -- November/December 1978.