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## Collective Bargaining in Higher Education: Observations from an ACE Fellow

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## **Collective Bargaining in Higher Education: Observations from an ACE Fellow**

José Antonio Rosa<sup>1</sup>

“There remains, in the control of higher education, an inherent tension. Colleges and universities are expected to respond to the needs of the society of which they are a part – while also being free to carry on, without undue interference, their essential work.” (Carnegie Foundation, 1982, p. 3)

The tensions identified by the Carnegie Foundation have been present in the academy since masters and students in Paris, Oxford, and other centers of knowledge battled for autonomy with municipal officials in the thirteenth century (Leff, 1968). We will revisit the relevance of these enduring tensions to collective bargaining in the academy later in this essay, but it seemed appropriate to mention them now because they help explain the American Council of Education (ACE) Fellows program and my involvement. Academic administration is messy, a notion recently affirmed by Asghar (2013). It is messy primarily because of these tensions. The academy exists at the intersection of conflicting social missions. In order for academicians to do their best, administrators and faculty leaders have to manage an inherently unstable social ecosystem. The ACE Fellows program, one of the oldest and most recognized academic leadership training programs in the U.S., uses an apprenticeship model to prepare emerging academic leaders to manage these tensions. I entered the program in August 2013 because of wanting to help defend and enhance the academy while recognizing that my 20-year faculty perspective was not the full picture. I was fortunate to spend the fellowship year at Eastern Illinois University, an institution that sets a high bar in its service to society, responsiveness to changing societal and demographic realities, and governance that includes an active and well-organized collective bargaining unit. My years in the auto industry (including front-line supervision in UAW-represented manufacturing environments) had prepared me for some of the contractual complexities found at EIU, but not for the different spirit in which problems were addressed and differences resolved. If corporate CEOs can learn from university presidents, as Asghar (2013) argues, it seems feasible that corporate labor relations can learn from collective bargaining management at U.S. colleges and universities.

My learning from the ACE Fellowship year went beyond the positive example of Eastern Illinois University, and the lessons come together to raise questions about the future of collective

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bargaining in U.S. higher education. Will collective bargaining grow in the academy as documented salary and workload inequities grow? Or has collective bargaining outlived its usefulness as the way in which post-secondary and graduate education is conducted changes? Supporting the idea that collective bargaining will grow in the academy are factors such as successful certification efforts at high-profile institutions such as the University of Illinois at Chicago and national-level organizing within the part-time academic workforce by the United Automobile Workers and the Teamsters Union alongside the American Association of University Professors, the National Education Association, and the American Federation of Teachers. On the other hand, support for collective bargaining among college and university professors is not uniformly strong, and in some cases has led to the successful decertification of collective bargaining units (Schontzler, 2013). As an ACE Fellow, and a member of the academic community, I find questions about the future of collective bargaining in the academy relevant to professors and administrators and important to society. In pondering the future of collective bargaining in the academy, a few factors emerge as important.

### **Technology Factors**

In general, professors and administrators seem to be both excited and alarmed by the proliferation and ubiquity of digital technologies. On the positive side, the workday has expanded and grown in flexibility as we are able to complete job-related tasks from anywhere and at any time. Research collaborations frequently span the globe in real time, business and coordination meetings are conducted as scheduled because absence from campus no longer prevents participation, and the range and impact of effective teaching has grown exponentially. Conversely, educators face students with real-time access to information (some accurate, some not) that either affirms or runs counter to what is being presented and a willingness to share such information. And then there are the countless distractions to which students turn readily when the classroom experience no longer holds their attention. Administrators and faculty leaders fare no better, as they try to bring order and focus to decision-making groups where members are checking e-mail, updating calendars, and chasing down YouTube clips that may or may not be relevant to the topics being discussed. With a few admirable exceptions, professors, administrators, and faculty leaders alike are affected by intrusive technologies.

Institutions are similarly affected. Cloud computing and storage, barely a possibility at the turn of the century, make it possible for institutions large and small to have equal access to limitless information and countless services, and to have practically equal influence in a knowledge marketplace that is no longer constrained by geographic location. The range of possibilities for classroom experiences (hybrid courses, flipped classrooms, MOOCs and their variants) make learning assessments and performance evaluations more complex. Physical facilities such as offices, classrooms, and meeting spaces at many institutions go underutilized,

while information systems and infrastructure perpetually need upgrading. Revenue sources and sustainability are changing rapidly, as are investment demands, in part because of fast-changing technologies, and the management of institutional resources, human, fiscal, and physical has grown more complex as a result.

Technology has multiplied variance in how work is done in colleges and universities, and complicated performance and compliance tracking for all parties involved. It has also broadened the settings in which faculty members work and attain desired goals, and even for whom they work. University administrators are known to bemoan that professors can now contract to deliver online courses for other institutions from their offices, and by so doing dilute the energy and commitment with which they serve home colleges and universities. Professors' ability to work virtually and undetected, I learned during my ACE Fellowship year, is seen by some distance-education institutions as a strategic resource to be exploited. Entrepreneurial professors are likewise enthralled by the autonomy and enhanced income potential that technology creates. I met some professors during ACE Fellowship campus visits, who are successfully harnessing technology to serve multiple institutions. In general, they see themselves as independent from their universities, and they resent having to support collective bargaining or abide by their norms. Some questions that arose from these meetings are: Can collective bargaining units effectively represent faculty who are only partially engaged with their home institutions? And does this weakening of collective bargaining units' ability to represent the faculty weaken their ability to negotiate? I do not have answers to these and similar questions that arise as technology changes pedagogical practice in the academy, but the questions are worth pondering by higher education and collective bargaining unit leaders. Technology is revolutionizing higher education delivery and execution. It may be shifting the mode of governance as well.

### **Societal Factors**

Employability as the primary reason for higher education is a major social factor affecting the academy. Perhaps because the notion of education as a pathway to a better life regardless of gender, location, language, or skin color has held for decades (an idea that in aggregate terms remains true), in times of economic stress and instability hundreds of thousands have sought education to offset their actual or perceived losses, and higher education institutions have responded accordingly. Since the 1980s, the number of higher education institutions and programs has expanded, and for a short time price seemed to be of little concern. Double-digit annual increases in tuition and fees did not seem to affect the demand for post-secondary and graduate degrees, and much of it was tacitly motivated by one overarching concern—employability. Need a better job? Get more education. Want a wider array of opportunities? Get an advanced degree.

Employability concerns may have well been the driving factor in much of the expansion in higher education opportunities and revenues since the 1980s, but it was not directly acknowledged as such until the Great Recession exposed several disconnects between labor market needs and what students seem to be learning. Employers under financial pressures have become increasingly choosy in their hiring while simultaneously reducing their workforce, and people who in 2005-2006 embarked on courses of study found themselves unable to get the attention of employers in 2010-2011. The general rule that education opened doors and expanded opportunities no longer seemed to hold for many, and the number of college-educated unemployed persons reached levels that forced the rule's breakdown into the national limelight. A college education no longer seemed to guarantee a better life. The social shock has been significant, and the end result has been a questioning of the value of higher education, and perhaps more important, of the integrity of higher education institutions.

Questions about the integrity and value of higher education have, in turn, generated a fair amount of finger pointing and speculation about possible causes. Speculative statements such as professors are lazy and overpaid, administrators are incompetent, colleges and universities need better business models, and higher education does not seem to understand or care for what the country needs pepper the national conversation. Not surprisingly, some blame collective bargaining in higher education (and other educational sectors) as a key contributor to inefficiencies and disconnects, and such arguments are amplified by the country's current ideological polarization. Admittedly, some university administrators have taken advantage of the public's mood to undermine organizing efforts and existing collective bargaining units, but such attacks are no more valid in higher education than in other economic sectors. Pointing to collective bargaining as the primary cause of higher education missteps and college graduates not finding jobs is unjust, but it is happening. Moreover, it is hard to predict how long such ideas will persist in the public's mind and inform policy and attitudes.

As with technology, social factors present challenges and opportunities for collective bargaining in higher education. Economic inequality and the mismatches between labor supply and demand (which have encouraged opportunistic workload redistributions at some institutions) should greatly enhance the attractiveness of collective bargaining for many professors and staff personnel across the spectrum of higher education institutions. At the same time, general distrust of higher education and unions may generate public resistance to collective bargaining efforts at colleges and universities, and may even influence the choosing of an institution for some students and families.

## Historical and Policy Factors

Putting aside environmental factors such as technology and social trends, which may change rapidly and unexpectedly, it is wise to consider some enduring factors that have shaped and continue to affect the role of collective bargaining in the academy. One factor is the long-standing mission of collective bargaining units: to ensure equity in work demands and compensation for faculty and staff in organizations that are, by design, administratively and operationally loosely-coupled. The academy thrives on a diversity of thought and execution across disciplines, diversity that in the aggregate engenders creativity. Because the boundaries between what is done and how it is done are fuzzy, differences in the priorities of autonomous units and departments within colleges and universities are likely to engender different managerial and administrative practices if left unchecked, and institutional size only serves to intensify such differences. Collective bargaining in higher education has made it a priority to develop workload, working conditions, and compensation guidelines that protect employee interests. In practice, collective bargaining practices have encouraged homogeneity in how curricula are developed, assessments made, and work rewarded. In an age of increased customization and workplace flexibility, however, are work rules and across-the-board standards necessary or even desirable? Is there a fundamental disconnect between what collective bargaining units seek to achieve and how institutions of higher learning need to function? These are questions we debated in the ACE Fellowship year without arriving at answers. They seem worthwhile for university and collective bargaining unit leaders to consider for their institutions.

A second factor is the professionalization of university administration in response to growing fiscal and operational demands. Gone are the days when university professors could rise to administrative posts by virtue of organizational memory and a willingness to serve. The accelerating rate at which expectations change has not reduced complexity, but it has increased the speed with which decisions must be made and outcomes measured and elevated administrative pressures. Are modern administrative practices, made necessary by growing and changing demands, compatible with traditional collective bargaining values and approaches? Does compliance with such practices slow down administrative decision-making and take away degrees of freedom to such an extent that the institution's competitiveness and efficacy are compromised? Higher education may not yet have answers, but in several industry sectors (e.g., automotive, steel, retailing) collective bargaining practices have changed in order to preserve organizational competitiveness. It is possible that higher education must follow suit.

A third factor stems from higher education's enduring mission and how it will be successfully achieved in the 21<sup>st</sup> century. For close to nine centuries, the academy has exercised authority to select who will teach, the content of courses, the processes of instruction, the establishment of academic standards and performance assessments, the pursuit of campus-based

research, and the certification of such pursuits. Defending this authority is an enduring challenge. As recently as 1957, the U.S. Supreme Court had to reaffirm “the four essential freedoms of the university; to determine for itself on academic grounds who may teach, what may be taught, how it shall be taught, and who may be admitted to study.”<sup>2</sup> It is ironic, but not altogether surprising, that the ruling was against the state where 138 years earlier Daniel Webster legally defended the independence of Dartmouth College in order to protect its academic integrity. The academy is both treasured and feared by society at large, and its freedoms will continually be under scrutiny. There are times when the essential core of the university collides with other values of equal merit, such as the right of individuals to be fairly evaluated and rewarded (or punished) for work rendered (or not rendered), and the right to be treated equitably relative to others with similar capabilities and responsibilities. When these rights are violated, and equity is compromised, the university is at risk. For the academy to earn self-determination, it must be its strongest critic, and collective bargaining units may be, in many situations, essential to this accomplishment.

In a perfect world, collective bargaining units will work hard to expose inequities and inefficiencies within their institutions, to right wrongs and make institutions better places to work and learn, and to preserve institutional viability for the benefit of all constituents, but they will do so within institutional boundaries. They will not involve persons and organizations outside the institution needlessly, and they will not engage in practices, be they playing to the legislative process, or using the media to skew public perceptions, in ways that weaken the institution’s reputation and ability to defend its independence. When collective bargaining units undermine institutional authority and integrity for the sake of short-term contract gains, the odds for long-term losses go up for all concerned. Admittedly, to achieve their diverse temporal goals, successful collective bargaining units have had to alter their methods as the forces encroaching on academic authority and independence have evolved; but they have not compromised on values or commitment to academic autonomy. Given the significant social, economic, and technological changes facing higher education, and what appears to be growing social distrust, the time may be ripe for collective bargaining to revisit its methods and mental models. Boris (2014) has advanced persuasive arguments in this arena. Collective bargaining in higher education needs to find ways to be successful behind closed doors and to own those decisions once the outside world gets involved.

### **Ideas for the Future**

Building on the idea that collective bargaining units are needed at many colleges and universities to protect institutional viability while also preserving academic autonomy, it seems wise to look for approaches to collective bargaining that are compatible with market and social

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<sup>2</sup> *Sweezy v. New Hampshire*, 354 U.S. 234, 263 (1957).

realities and which allow for the academy to manage its own affairs with only limited external intrusions. Fortunately, the academy is not alone in needing collective bargaining and autonomy preservation to co-exist, and it can learn from what has been done in other industry sectors.

Valuable insights can be gleaned from the manner in which the United Auto Workers and the Ford Motor Company worked to keep the company out of bankruptcy and away from government control during the Great Recession. The multi-year collaboration is well documented (Hoffman, 2012), and in the eyes of industry observers helped to not only save the Ford Motor Company but to give it a competitive advantage from which it continues to benefit. By avoiding a government bailout, Ford Motor Company was able to streamline and improve its managerial practices, and effectively respond to fast-changing auto and truck market demands more quickly than its global competitors. As a result, it has gained global market share while also protecting US-based jobs.

Three general principles can be gleaned from the Ford-UAW collaboration: senior leadership involvement, transparency, and flexibility.

On senior leadership involvement, the Ford-UAW collaboration that saved the company was partially made possible by Ford CEO Alan Mulally and UAW President Ron Gettelfinger having frank conversations about the situation at Ford and the UAW, the threats facing the company and the union, and different strategic options and their consequences. These conversations allowed them to arrive at a mutually agreeable contract. Admittedly, Mulally and Gettelfinger knew each other before Mulally took over at Ford because of UAW representation of Boeing employees. This served to facilitate the initial conversation. However, the fact remains that both leaders, regardless of the companies or union chapters involved, were willing to share openly. They were willing to make themselves vulnerable to external criticism for the sake of solutions to vexing problems, and to have heated arguments behind closed doors but jointly own decisions once made. Neither Mulally nor Gettelfinger stopped pursuing the interests of their respective organizations. Mulally won concessions on employment, plant closures, and cost-sharing that helped the company avoid bankruptcy, while Gettelfinger won job security and continuing benefits for UAW members under adverse market conditions.

Second, as higher education practices in the U.S. continue to change and external pressures escalate, it is important for top-level institution and bargaining unit leaders to redouble their pursuit of frank and open communication. They need to willingly accept criticism from their constituencies as negotiations unfold, to negotiate aggressively and wisely, and to courageously own the outcomes of such negotiations. Even if the worst-case scenario of a leader being ousted because of decisions arising from such a process were to unfold, the likelihood of institutional



viability and greater responsiveness to external factors is enhanced when top-level leaders are part of the collective bargaining process.

Transparency is equally indispensable. Under orders from Mulally and Gettelfinger, Ford and the UAW shared detailed information about all aspects of company and union concerns. Financial records were made available, successes and failures were discussed in detail, and ambiguities clarified. Hoffman (2012) argues that by the end of negotiations UAW leadership knew as much about Ford Motor Company operations as Ford's senior leaders and that they fully understood the risks facing the company and the auto industry. Transparency served to improve the quality and sustainability of resulting contract provisions. It also elevated trust and the willingness to share risks between the company and the union. In higher education, budgetary complexities are sometimes used to avoid information sharing, be it with faculty, staff, students, or collective bargaining units. Lack of transparency, in turn, invites speculation and conflicting stories about institutional finances and the availability or absence of resources, and hinders shared understanding and mutually agreeable action plans. Ford and the UAW achieved unprecedented collaboration at a time of crisis because they understood one another's situations well. Similar levels of shared understanding would be welcome in the academy.

The third principle is flexibility. When Ford and the UAW started negotiations, market uncertainties over global employment, interest rates, and world financial system stability were overwhelming to most industry and government leaders. Early decisions were based on assumptions and hopes that later proved false or untenable, and contract provisions had to be renegotiated repeatedly. Ford encountered market demand problems that worsened its situation, and the UAW encountered difficulties with the GM and Chrysler negotiations that forced a reopening of some earlier-negotiated concessions. Commitments to flexibility were made early and tested repeatedly during the negotiation process. Because of such cognitive and operational flexibility, negotiations did not stall.

The academy faces significant uncertainty stemming from political, technological, financial, and social environments, and it is hard to project ahead to how many institutions of higher learning will remain viable or how they will function. Collective bargaining units and institutional leaders need to approach negotiations with an open mind as to work loads, compensation and benefits, employment levels, work rules, evaluations of achievement, and the many other areas of concern that appear in labor contracts. Some early agreements will prove untenable, and late developments will open unforeseen opportunities for mutual gain. When cognitive and operational flexibility are preserved, successful negotiations in the face of high uncertainty are more likely.

## **Concluding Thoughts**

Admittedly, operationalizing senior leadership involvement, transparency, and flexibility in specific situations is where the challenges truly lie. Institutional histories are hard to overcome, and cultural differences between institutions can render an approach that succeeds in one situation an abysmal failure in others. The Ford-UAW negotiations were, in part, made possible by the historical context in which they took place. The right people came together at the right time. Given that situations were similar at GM and Chrysler but outcomes differed. However, we should not discount the Ford-UAW success as merely a historical accident. Leaders and organizations committed to sound principles achieved success where others failed. The same can be true for higher education. I believe that collective bargaining is integral to the proper functioning of many higher education institutions in the US. What is needed from institutional and bargaining unit leaders is a rethinking of collective bargaining approaches in the face of changing technological, societal, historical, and policy realities.

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