Universities Should Continue to Bargain

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Daniel J. Julius, University of Alaska

Recent events in Wisconsin and elsewhere question whether collective bargaining will remain a viable process. Ostensibly to react to a budget crisis, a newly elected Wisconsin Governor successfully introduced legislation abrogating the right of organized public employees (which include roughly 10,000 faculty and staff), to bargain collectively. Nationally, over 300,000 faculty, approximately 40% of the professoriate, are represented, making higher education one of the more unionized sectors in the United States. Without the legal protection of “enabling legislation,” public employers, including public universities, are not obligated to bargain collectively. In fact, the legislation has already had an impact on unions representing employees in Wisconsin.

College and university leaders should to continue to honor collectively negotiated agreements maintaining relationships with faculty unions, rather than avail themselves of tempting opportunities to redraw the labor and human resources map. To understand why requires some background on the academic union movement, the impact of unions on university management, and the potential advantages of collective bargaining.

Faculty unions first arrived on public university campuses in the mid 1960s in Wisconsin, Michigan, and New York. Those most receptive to organizing campaigns worked in private colleges in eastern metropolitan areas and in larger systems in states with enabling public sector labor legislation, where other public employee groups were unionized. The decision to reject traditional shared governance forums was, in my opinion, a defensive reaction by faculty, prompted more by a desire to assert or hold onto professional prerogatives increasingly at risk as university leaders responded to change. Economic factors were important but were clearly not the driving cause.

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1 A shorter version of this essay appeared in The Chronicle of Higher Education under the title “Faculty Union's; A Labor of Love” on July 7, 2011.
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Early predictions

Several notable studies averred that a reconciliation of unions with “professional values and ideals” would be moot; collective bargaining would be relegated to the lower tiers of academe. Others predicted the demise of tenure; an end to departmental autonomy, shared governance, and the student teacher mentor relationship; declining quality and collegiality; arbitrators rather than faculty committees awarding tenure; and an end to decanal and presidential authority. Union advocates heralded higher salaries; greater faculty control over programmatic and managerial prerogatives; protection from layoffs; fair and transparent peer review and tenure procedures; and shelter from “arbitrary decision makers.”

What has happened?

Many early predictions did not materialize. Those based on attitudinal studies proved most specious. Unionization is neither the panacea nor the peril it was thought to be, and disentangling the organizational consequences of collective bargaining from other forces transforming the academy is difficult. There is little evidence that unionization hurt institutional prestige, academic quality, the student teacher relationship, or professional values and academic senates coexist with unions in most cases. Nor are unions confined to a lower tier. SUNY Stony Brook, Buffalo, Rutgers, Cincinnati, the universities of Massachusetts, Connecticut, Maine and New Hampshire, South Dakota, Hawaii, Florida and Florida State, San Diego State, UC Santa Cruz, and other excellent schools bargain collectively. The bulk of the unionized professoriate is found in approximately ten states. Despite initial claims by unions, it remains unclear that choosing a particular union agent makes a significant difference, and in fact, a majority of organized faculty are represented by “mergers” of bargaining agents. Nor has collective bargaining itself contributed to higher compensation or lighter teaching loads (compensation packages have become more uniform) unions have not slowed the employment of thousands of new adjunct faculty (they have sought to organize them) and little evidence demonstrates unions have gained more control over internal resource allocation.

Are there Consequences?

Few of the consequences of faculty collective bargaining were envisioned by earlier studies. Faculty are represented by an exclusive representative and it is difficult to maintain individual working arrangements or make exceptions. Decision making
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procedures are more uniform, written down, and subject to review. In some locales, handbooks in effect prior to unionization were incorporated into labor contracts that are now subject to arbitral review taking authority from faculty and campus administrators and giving it, where matters are grieved, to system administrators and arbitrators (substantive tenure decisions are normally excluded from arbitral review).

Closer relationships develop with regulatory authorities and legislative processes in the ratification and funding of contracts. Conflict is managed in different forums. The same arbitrators who adjudicate baseball contracts, disputes with the seafarers, teamsters, electricians, musicians, journalists, nurses, librarians, and teachers do so with faculty. Collective bargaining generates centralizing forces imposing similar constraints on union officials and senior executives.

Why continue to bargain?

Faculty collective bargaining should continue because of the core reasons faculty choose to unionize, the chaos which could ensue if collective bargaining relationships were to end, and the potential advantages unionization brings to executives who understand the process. Academic unionization safeguards “craft” prerogatives; control over schedules and course content; protection over appointment and promotion policies; and safeguarding the faculty’s role in curriculum and teaching methodology. Labor agreements do not dispense with traditional criteria to assess intellectual quality, and where tenure exists, it is contractually protected (through the tenure process traditional craft controls can be exercised).

Parenthetically, if the analogy to craft bargaining is accepted, the debate over professionalism versus unionism becomes less meaningful. If by unionism we mean seniority determined work rights; standardized procedures and policies in the workplace; and guaranteed job security, a potential conflict may exist with professional values. The above analogy however fits with what is thought as the “industrial” approach, not the craft. Eviscerating craft protections will engender conflict over “academic prerogatives,” not economic issues. Few senior administrators will survive this conflict, and ultimately the president, the governing board or the governor will bring an individual in to calm waters.

Labor contracts establish a framework where stakeholders formalize the shared governance of an institution. Unionized institutions can be easier to manage than non-organized schools. For those who navigate the relationship proactively, contracts bring
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established procedures and timelines to address tough institutional, human resources, economic, and academic issues. Contracts offer accepted lines of communication and obligate the parties to adopt long-range perspectives bolstering planning.

Multiyear agreements allow for accommodation of new economic realities, governance, merit, and shared authority can be safeguarded. Grievances rarely get litigated in court, an expensive proposition. Although fewer private schools are involved, when presidents were handed a Supreme Court decision (Yeshiva, 1981) to effectively end bargaining, where “established” relationships existed prior to the decision, few used the legal arsenal to end them. Over the past twenty years, the number of private school faculty represented by unions doubled; today there are more organized private institutions than in 1981.

To be sure, unions are faced with a massive public relations campaign. They have been vilified in American society, and some senior leaders appear more willing to engage in accommodation of union demands than upholding principles of good stewardship and management. In today's world where we face real competition from international competitors, the public is losing confidence in higher education. Student success suffers due to economic shortfalls, and we are faced with making substantive cuts to university budgets hurting both students and the public. We would be better off with the organized professoriate as partners, not adversaries.