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Analyzing the Upward Trend in Academic Unionization: Drivers and Influences

Andrea Clemons¹

For over 70 years, U.S. labor unions have represented academic employees, and over the past decade, unionization in higher education has accelerated despite an overall historic low in union membership (DiGiovanni, 2016; W. Herbert, 2017; W. Herbert et al., 2023; D. Julius & DiGiovanni, 2019; Moffett, 2023). The discourse surrounding collective bargaining has evolved, with recent campus dialogues centering on faculty's strategic utilization of collective bargaining to fortify safeguards for academic freedom and mitigate the risk of job loss. The discontent surrounding higher education amid the prevailing polarized political climate, coupled with a growing divergence in public perceptions, underscores many challenges confronting contemporary higher education (Brink, 2022; Kelderman, 2023). The shift in public perception has created a critical period of significant rebalancing of internal and external relations of authority, power, and responsibility in higher education governance. This is due, in part, to the dichotomy of the purpose of education as either job readiness or to prepare the student holistically (Maassen, 2014). Environmental factors are pivotal in influencing organizational changes, including shifts in labor composition within higher education, such as legislative mandates and expenses escalating disproportionately to revenue.

The alterations in the configuration of academic labor, driven by stagnant funding and increasing expenses at institutions nationwide, induce the urgency to develop a forward-looking alternative conception of university employees (Cohen & Kisker, 2010; Colby, 2023; Schuster & Finkelstein, 2006). Accomplishing this goal requires an approach that aims to transcend a corporate model centered on exploiting academic work for short-term economic gains (Rhoads & Rhoades, 2005). The shifting role of the professoriate, such as the declines in tenured faculty, may be one of the most underrecognized yet significant impacts on higher education, given the substantial growth in union activity among graduate students, undergraduates, and contingent faculty (W. Herbert, 2017; W. Herbert et al., 2023; D. Julius & DiGiovanni, 2019; Moffett, 2023; Rhoades & Rhoads, 2003). While the organization of college and university faculty, especially non-tenured faculty, graduate assistants, and other student workers, is not a recent phenomenon, its pace has increased in recent years (W. Herbert et al., 2023). In addition to the shifting composition of academic labor, the evolving social contract among higher education, political authorities, and society has collectively contributed to trends in higher education

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unionization. As the academic profession faces unprecedented challenges, heightened union activity is observed, particularly in states like Florida, reflecting the turbulence sparking concerns about the sustainability of higher education institutions nationwide. These changes, including legislative mandates, challenges to academic freedom, modifications in tenure structures, and barriers to union organizing, collaboratively contribute to stimulating meaningful dialogues about the future of higher education labor.

This paper aims to analyze the growing trend of academic unionization by exploring the influences evident in the evolving discourse on collective bargaining and investigating the multifarious challenges higher education institutions face. It will delve into how the evolution of collective bargaining, coupled with shifting public perceptions and political dynamics, has shaped academic labor relations. Additionally, the paper will address a significant rebalancing within higher education governance, emphasizing the dichotomy of educational purposes as a backdrop to understanding the present landscape and examining how these contemporary circumstances energize established bargaining units.

Upward Trend in Collective Bargaining in Higher Education

Widespread collective bargaining involving faculty has passed the seventy-year mark, with more than a quarter of those teaching college classes covered by collectively bargained contracts (Cain, 2017; W. Herbert, 2017; D. Julius & DiGiovanni, 2019). Unionization in higher education began in 1918 when a group of faculty at Howard University affiliated with the American Federation of Teachers (AFT) hoped to improve their working conditions and influence while securing additional funding for the institution (Cain, 2017, p. 8). Although most faculty did not unionize during the early years, and many viewed it as diametric to the profession, they would later be emboldened by favorable state and federal legislation and turn to collective bargaining as a route to address “perceived inequities in a massifying system of higher education” (Cain, 2017, p. 25). The unionization movement in higher education began in the public sector and grew following the 1970 Cornell University decision by the National Labor Relations Board (NLRB) (*Cornell University, 183 N.L.R.B. 329, 1970*), which asserted jurisdiction over private colleges and universities for the first time (Cain, 2017; W. Herbert, 2017; D. Julius & DiGiovanni, 2019). In contrast to private employers governed by the NLRB established with the 1935 National Labor Relations Act (NLRA) (a.k.a. Wagner Act), the decision to grant collective bargaining rights to public university workers was left to the discretion of individual states. The American Association of University Professors (AAUP) and the National Education Association (NEA) joined the AFT as national organizations vying for collective bargaining units (Cain, 2017). In recent years, the unionization of full-time faculty has predominantly occurred in state institutions. The authorization for faculty unionization in state institutions is rooted in state law,

in contrast to the private sector, which operates under federal law and the U.S. Constitution, leading to greater uncertainty regarding the ability to unionize (*Collective Bargaining*, 2006; D. Julius & DiGiovanni, 2019). Although union growth occurred in the private sector, the public sector remains the most consonant for faculty, where it is estimated that over a third are represented (W. A. Herbert et al., 2020; D. J. Julius, 2021). By 1980, a quarter of the faculty was organized (Cain, 2017), and this growth inspired continued conversations about who is considered an employee and who should have the right to union representation.

Organized activity in the private sector slowed considerably, particularly for full-time faculty, following the Supreme Court's decision in 1980 involving Yeshiva University in New York (Cain, 2017; D. Julius & DiGiovanni, 2019). In Yeshiva, the Supreme Court held that faculty at private universities could be classified as managerial employees due to their considerable collective power through institutional governance systems and were, therefore, not entitled to the same collective bargaining rights as non-managerial employees under the NLRA (D. Julius & DiGiovanni, 2019; *NLRB v. Yeshiva University*, 444 U.S. 672, 1980). In the aftermath of Yeshiva, the expansion of bargaining efforts for full-time faculty experienced a notable deceleration (Cain, 2017; D. Julius & DiGiovanni, 2019). Moving forward, the most substantial growth areas in faculty organizing since the late '90s continue to be among contingent faculty, graduate teaching, and research assistants (D. Julius & DiGiovanni, 2019). Unionization of part-time, adjunct, and graduate student employees grew considerably in the private sector (D. Julius & DiGiovanni, 2019), particularly at private non-profit colleges and universities, including religiously affiliated institutions (W. Herbert, 2017). While the discourse on unionization has persisted, the focus continues to be centered around delineating between managerial and employee roles, reflecting the ongoing redefinition of the structure of academic labor and underscoring its relevance across different periods.

Restructuring Academic Labor

American higher education and the professoriate are amid unprecedented transformation as copious institution-molding forces rapidly reshape the meaning of higher learning (Schuster & Finkelstein, 2006). As funding remains static and expenses continue to rise at institutions nationwide, a new focus on personnel costs has forced changes in the structure of academic labor, causing a shift in academic employment from full-time to primarily contingent appointments (Cohen & Kisker, 2010; Colby, 2023; Schuster & Finkelstein, 2006). Contingent faculty, which includes part-time, adjunct faculty, and full-time but non-tenure-track faculty (D. J. Julius, 2021), increasingly turned to unions by the turn of the century to improve their working conditions (Cain, 2017). Furthermore, the 1990s and early 2000s witnessed an upsurge in graduate students organizing in attempts at numerous public and private universities as they too

sought to bargain for better working conditions and wages (Cain, 2017; D. J. Julius, 2021; Rhoades & Rhoads, 2003; Rhoads & Rhoades, 2005).

With the growth of contingent faculty and graduate student union activities, establishing legal precedence over decades, the Yeshiva decision notably left adjunct faculty unaffected, as they typically lack significant governance influence compared to their full-time tenured counterparts (D. Julius & DiGiovanni, 2019). Moreover, the decision did not address graduate student workers whose bargaining status hinges more on the question of employee status versus student status than on questions of managerialism (D. Julius & DiGiovanni, 2019; Rhoades & Rhoads, 2003; Rhoads & Rhoades, 2005). Exploring the drivers and influences in academic unionization becomes imperative to comprehend the evolving labor relations within academic institutions. This analysis lays the groundwork for understanding the current landscape, as seen in the case of adjunct and contingent faculty unions, and foreseeing potential union growth or re-energizing activities within current unions.

Adjunct and Contingent Faculty

Academic staffing is inexorably moving toward becoming a contingent workforce, and part-time appointments have risen steadily over the past three decades (Schuster & Finkelstein, 2006). The U.S. academic workforce has shifted to primarily contingent faculty and part-time faculty (Colby, 2023; Schuster & Finkelstein, 2006), and new bargaining units are continuing to be added for these workers as attention is being focused on their relatively lower compensation, lack of benefits or job security, and troublesome working conditions (D. Julius & DiGiovanni, 2019). While some adjuncts are working because they desire to teach, most of the union-organizing focus has been on adjunct faculty trying to make a living teaching part-time, and their numbers have steadily grown to the point where they teach more than half of the credit-bearing courses at many institutions (D. Julius & DiGiovanni, 2019, p. 132).

Adjuncts have become a prime target for union organizing in public and private arenas. They are experiencing unit growth because of a surge in organizing activity by the Service Employees International Union (SEIU) (D. Julius & DiGiovanni, 2019, p. 132). Furthermore, in 2014, the NLRB rendered a decision in the case of Pacific Lutheran University, asserting that the absence of job security for contingent faculty was considered a significant factor (W. Herbert, 2017; D. Julius & DiGiovanni, 2019; *Pacific Lutheran University*, 361 N.L.R.B. 1404, 2014). Aside from adjuncts and contingent faculty, the unionization of graduate students has been even more contentious as they seek to define their role as employees and join in the fight for better working conditions and wages (Cain, 2017; D. Julius & DiGiovanni, 2019; Rhoades & Rhoads, 2003). The academic workforce is progressively adopting a contingent model, confronting issues

of inadequate compensation and job insecurity, with graduate students becoming another integral part of the dynamic labor landscape in union discussions.

Graduate Assistants

Over time, graduate assistants have increasingly taken on teaching and research responsibilities that are, in many ways, indistinguishable from adjunct instructors (Cain, 2017; Hoffman, 2017; Rhoads & Rhoades, 2005). Graduate student unions are even more contested as stakeholders disagree about whether student status supersedes instructional roles and precludes employee status, while union members argue that their roles no longer serve as forms of apprenticeship but are instead poorly compensated labor (Cain, 2017; Rhoads & Rhoades, 2005).

The NLRB has persistently wavered on the issue for over 50 years. In its 1972 seminal decision of *Adelphi University*, the NLRB ruled that graduate students who were teaching and research assistants were not employees but instead primarily students and should be excluded from a bargaining unit (*Adelphi University*, 195 N.L.R.B. 639, 1972). Since that decision, the NLRB has changed its stance multiple times (*Student Assistants Fact Sheet*, 2019). In 2000, the NLRB reversed its position in its *New York University* decision when it concluded for the first time that graduate student assistants were employees, but a short four years later, at *Brown University*, the NLRB shifted its stance again, finding that student workers were not employees (*Brown University*, 342 NLRB 483, 2004; *New York University*, 332 N.L.R.B. 1205, 2000). Most recently, in 2016, The NLRB overruled itself again at *Columbia University*, ruling that student workers, including teaching and research assistants, were employees (*The Trustees of Columbia University in the City of New York*, 364 NLRB No. 90, 2016).

For many in higher education, it should be no surprise that graduate student unionization is rising. Graduate employees are not alone in their critique of the corporatization of contemporary research universities and the growing strength of a market-driven focus in American higher education reflected in the heavy reliance on part-time instructors and teaching assistants and the general adjunctification of undergraduate education (Rhoads & Rhoades, 2005, p. 248). A recent increase in demand exists for graduate students due to budgetary constraints that have prevented departments from hiring new faculty, pushing universities to increasingly depend on graduate teaching assistants (Rubin & Rubin, 2007). The distinctiveness of the critique offered by graduate employee union organizers goes beyond decrying the use of part-time instructors and focuses on employees' rights and working conditions, situating graduate employees as marginalized workers (Rhoads & Rhoades, 2005). Few, if any, industries have competing structures like those found in higher education, and demarcating clear areas of influence will remain a challenge as the nature of academic labor is changing quickly from one grounded in

full-time, tenured positions to the precarious world of contingent faculty (D. Julius & DiGiovanni, 2019, p. 175).

As higher education experiences a transformation toward contingent labor, the ongoing redefinition of the structure of academic labor shapes the academy in ways that are not yet fully comprehended. Concurrently, the shifting landscape of higher education, influenced by evolving social contracts and political pressures, contributes to the current momentum in union activity and an energizing of existing collective bargaining units. The historical context of U.S. labor unions representing academic employees and the recent decade's acceleration in higher education unionization suggests an ongoing trend. As threats to full-time faculty persist, the future will likely witness a heightened interest in unionization among faculty and continued growth among adjunct, contingent faculty, and graduate student unions, thus consistently molding the landscape of academic labor relations.

Contemporary Drivers and Influences in Unionization

Growing dissatisfaction with higher education recently has created concern for the diverging public perception of higher education (Brink, 2022; Kelderman, 2023) resulting in the lost confidence in the economic benefits of a college degree (Brink, 2022). At the same time, politicians have heightened attacks on universities, claiming that institutions further progressive agendas and indoctrinate students (Kelderman, 2023). Heightened legislative activity questions everything from tenure to diversity education. The social contract among higher education, political authorities, and society has changed, and there have been growing policy concerns focused on the contributions higher education institutions are expected to make to economic growth, job creation, and innovation (Maassen, 2014, p. 33). Moreover, the course of higher education labor relations continues to be molded by environmental factors, including legislative mandates, performance-based budgeting, funding in certain states aligned with specific political agendas, levels of student debt, challenges to academic freedom, modifications in tenure structures, and impediments to union organizing. These elements collectively contribute to organizational changes within higher education, contributing to an upward trend in higher education union activity.

As influences increasingly shift higher education, it is critical to consider collective bargaining and whether it can be an effective instrument for faculty to reinforce and secure the principles of academic freedom and tenure, fair workplace procedures, and the stability of the professorial profession. In light of the growing dissatisfaction with higher education and heightened political attacks, particularly in states like Florida, which has become an illustration of contemporary drivers and influences in energizing bargaining units, there is a pressing need to

explore the implications for academic freedom, tenure, and overall union activity within the evolving landscape of academic labor relations.

Academic Freedom

The relationship between collective bargaining and academic freedom has been debated over the years, and recent conversations are focusing on how faculty can most effectively utilize collective bargaining in tandem with shared governance to strengthen academic freedom protections (Cain, 2020; Mauer, 2023). The AAUP deserves credit for its pioneering role in developing policies protecting academic freedom, as most labor agreements contain provisions adopted from original AAUP statements (*1940 Statement of Principles on Academic Freedom and Tenure*, 1940; D. Julius & DiGiovanni, 2019). Over the past several years, the purpose of academic freedom and tenure has been highly debated as numerous states have implemented legislation to impose restrictions on curriculum and expenditure utilization.

Recently, there has been a concerted nationwide movement to introduce state legislation that is a troubling and unusually brazen series of challenges to academic freedom (Brint, 2023). In 2021, Republican state legislators began to draft bills banning what they referred to as divisive concepts in education curricula that would inject political considerations into academic decision-making regarding hiring and curriculum development (Brint, 2023; Surovell, 2023). By the summer of 2023, governors of eight states had signed into law higher education curriculum restrictions, five states had signed into law restrictions on diversity, equity, and inclusion (DEI), and legislatures in 12 states were considering similar bills restricting curriculum, DEI, or both (Brint, 2023). As of February 2024, the *Chronicle of Higher Education* is tracking 73 bills in 26 states that would prohibit colleges from having DEI staff, ban mandatory diversity training, prohibit the use of diversity statements in hiring, or prohibit colleges from using race, sex, color, ethnicity, or national origin in admissions or employment (*DEI Legislation Tracker*, 2024).

In Florida, as part of Governor Ron DeSantis's effort to counter perceived ideological influences, Senate Bill 266, passed in May 2023, seeks to limit academic freedom in higher education. The legislation carries substantial implications, introducing state restrictions on expenditures associated with DEI and modifying requirements within the state's general education curriculum. Faculty members are not taking these changes lightly and see this as a hindrance to students who will no longer benefit from a diverse curriculum that welcomes critical thinking (United Faculty of Florida, 2024). In response to the Florida Board of Governors (BOG) decision to eliminate Principles of Sociology as a general education core course option, the United Faculty of Florida (2024) asserted in a press release their unwavering commitment to

advocating for the rights of students, graduate assistants, and faculty, emphasizing their determination to continue to fight for academic freedom.

Modification of Tenure

Amidst a broader trend seen in several states, a legislative change has influenced the institution of tenure, compelling numerous academic institutions to respond to external pressures, particularly from non-academic stakeholders such as politicians and higher education funders, who perceive tenure as a shelter for unproductive faculty. Many institutions have had to respond to pressures from external constituents “outside academia, particularly legislators and other funders of higher education, who think that tenure is a free ride designed to protect non-productive faculty members” by developing comprehensive models of faculty evaluation, including post-tenure review (Wood & Jarlais, 2006, p. 1). The university system used to pride itself on rigorous academic scholarship and professional self-regulation to enrich the educational experience of the student body by exposing them to various ideas and perspectives from professors who do not have to censor themselves out of fear of losing their jobs (Schlaerth, 2022, p. 8).

The shifting priorities evoke the corporatizing of the university and the altering of the culture of higher education, shifting the focus to cutting operating costs, namely, the money spent on faculty and scholarship of an aging, tenured faculty who are well-compensated and wield power within their schools (Schlaerth, 2022). From a business standpoint, it makes sense to eliminate costly tenured positions and replace them with non-tenured positions, contingent faculty, graduate assistants, and adjuncts as available resources become constrained compared to revenue, indicating a struggle to meet the expectations placed upon them, especially at public institutions (Schlaerth, 2022). The challenge inherent in this ideology is that treating institutions as corporate entities undermines the fundamental purpose of higher education. This, in turn, has spurred a surge in union activity as faculty perceive their life's work to be threatened by external forces that may not fully comprehend its value or purpose.

Florida underwent significant changes with the enactment of Senate Bill 7044 and the subsequent issuance of Regulation 10.003 Post-Tenure Faculty Review by the Florida Board of Governors, outlining the new requirements and process for all state universities. While the tenure-granting universities in the system already have a post-tenure review process, the regulation imposes prescriptive criteria. The regulation criteria delineate summative review requirements, focusing on behavior. The United Faculty of Florida (2023) raised concerns about the regulation, emphasizing that five out of six criteria are largely unrelated to faculty performance and lack expert peer review, a widely accepted method to evaluate academic expert

quality and performance. Connecting protections for tenure directly to protections for academic freedom, faculty members in Florida perceive this regulation as just one of numerous endeavors to reshape academia and jeopardize their careers, prompting a renewed focus on union recruitment.

Employee Organization Barriers

Discussions concerning union rights, including the collection of dues, membership certification, and personnel decision arbitration, are not novel. While previous decisions laid the groundwork, Florida has recently taken center stage by implementing several bills that tighten regulations on union activity. In Florida, Senate Bill 256, passed in May 2023, mandates an increase in the membership threshold, elevating the minimum requirement from 50% to 60% of workers in the affected bargaining unit to be dues-paying members before the threat of decertification, in addition to ending the automatic union dues deductions from public-sector employee paychecks (Employee Organizations Representing Public Employees, 2023). In reaction to the governor's endorsement of what has been termed as anti-union legislation, members of the Senate Democratic Caucus expressed their concerns in a press release, asserting that the State of Florida has consistently demonstrated an effort to eliminate advocates for teachers and stifle groups advocating for improved pay and working condition (The Florida Senate, 2023). Notably, the legislation excluded police, firefighters, and correctional officers from its scope, thereby being interpreted as a deliberate attack on educators. Alongside the challenges related to membership mandates, Senate Bill 266, the DEI bill mentioned earlier, incorporates a clause that grants ultimate decision-making authority for personnel disputes to university presidents, as opposed to a neutral and unbiased arbitrator.

The recent legislative mandates in Florida are serving as a catalyst for heightened union recruiting activity as academic faculty and staff respond to the evolving higher education landscape shaped by these legal changes. While union activity has experienced fluctuations over the past 70 years, akin to the unpredictable nature of tides, the recent decade has witnessed increased turbulence, with states like Florida taking a prominent role. This surge reflects the legislative disturbances that have raised concerns about the sustainability of the academic profession. All of higher education is closely watching the debacle unfold as it may hold severe consequences for the future of institutions nationwide.

Conclusion

Over the past decade, unionization in higher education has accelerated despite an overall historic low in union membership (DiGiovanni, 2016; W. Herbert, 2017; W. Herbert et al., 2023;

D. Julius & DiGiovanni, 2019; Moffett, 2023) and highly charged battles over union rights continue (Cain, 2017; D. Julius & DiGiovanni, 2019). Select industries remain heavily unionized, such as in specific higher education sectors where full-time faculty unions flourish (Cain, 2017; D. Julius & DiGiovanni, 2019; Rhoades, 2011). In recent years, faculty unions in the public sector have felt they face political attacks that challenge their stability and influence within the higher education landscape (Cain, 2017). In several states, legislators have undertaken unprecedented efforts to severely restrict or rescind the right of public-sector employees to bargain collectively (Rhoades, 2011). Contemporary higher education challenges have fostered an environment conducive to increased organizational activity and collective bargaining within the academic sector (Cain, 2017; Rhoades & Rhoades, 2005; Schlaerth, 2022).

The polarized political landscape, public views of tenured faculty, and the pressures on modern higher education have been repeatedly highlighted, yet much is unknown about the broad effects on higher education (Cain, 2017). With the heightened legislative interests questioning everything and implementing changes to higher education, faculty are considering collective bargaining and whether it can effectively protect the academic profession. At the same time, institutions look to identify ways to continue operations with increasing expenses. Conditions in higher education are ripe for a level of labor activism not seen in recent decades because, depending on whom you talk to, higher education institutions are either great employers or failing their workers. Moreover, the course of higher education labor relations continues to be molded by environmental and organizational factors encompassing legislative mandates, challenges to academic freedom, alterations in tenure structures, and impediments to union organizing. These elements collectively contribute to organizational changes within higher education, driving an upward trend in higher education union activity.

As society continues to question the value and purpose of higher education, the rise in union activity may persist. Faculty are voicing frustration and fear over the changes impacting higher education and challenging the culture of academe to which they have dedicated their lives. While an uptick in activity seems apparent for the rising numbers of contingent faculty and graduate students, the tenure-track faculty numbers are diminishing, which may spur a push for protections in what is being viewed as the extinction of the professoriate. As with the past cyclical changes, these political interventions may slow and reduce the unease among scholars. However, the lull between the surges of legislative activity is becoming shortened with each wave and only highlights the glacial changes in which higher education continually morphs to fit into the new narrative of public perception on the purpose of higher education.

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