

Journal of Collective Bargaining in the Academy

Volume 0 *NCSCBHEP Proceedings 2011*

Article 17

April 2011

Year in Higher Education: Research and Reality

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Recommended Citation

Bucklew, Neil (2011) "Year in Higher Education: Research and Reality," *Journal of Collective Bargaining in the Academy*: Vol. 0 , Article 17.
Available at: <http://thekeep.eiu.edu/jcba/vol0/iss6/17>

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38th Annual National Conference

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

Annual Panel - Year in Higher Education

Monday, April 11, 2011

“Research and Reality”

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RESEARCH AND REALITY

A. Research Project – Academic Collective Bargaining and Its Impact on Traditional Faculty Governance

B. An Abiding Issue

1. Early 1970's

"The system of self-governance treasured by many faculty members does not easily adapt to collective bargaining. Indeed, it can probably not survive this new environment." [Wollett]

"A faculty may, however, trade away a meaningful system of self-governance for occupational bread-and-butter gains." [Mortimer and Lozier]

2. 1975 – Stanford Project on Academic Governance [Kemerer and Baldrige]

National survey of 17,000 faculty and administrators and seven campus case studies. Identified concept of "dual track bargaining" where faculty union acknowledged existence and role of faculty senate.

3. 1979 – Governance at Four-Year Colleges [Barbara Lee, Ohio State University]

Key findings:

*Collective bargaining formalized the power of faculty in governance issues.

*Bargaining pushed decision-making to central administrators and away from deans and schools/colleges.

*Where senates were weak, they stayed weak or disappeared; where senates were strong the unions, respected the senate prerogatives.

4. 1980 – NLRB vs. Yeshiva: Rolled back bargaining at private colleges and universities.

Cooper Union case opened doors for limited private institution faculty bargaining.

5. 2001 – "Unions and Faculty Governance," Almanac of Higher Education [Maitland and Rhoades]

“The faculty role in decision-making is almost always an issue in collective bargaining elections. Faculty members support bargaining when they perceive erosion of their governance role, but they worry about the effect of unionization on existing governance practices.”

This study reviewed a series of contracts evaluating how the agreement dealt with traditional governance issues, illustrating the different patterns in how the role of traditional senates functioned under formal agreements.

C. Models of Faculty Unionization – Bucklew and Houghton created a research structure suggesting four models of how faculty bargaining has dealt with traditional governance and the role of the senate.

1. Comprehensive Collective Bargaining Model
2. Union as Co-Determiner and Enabler of Shared Governance
3. Union as Co-Determiner but Shared Governance is Permissive Only
4. Limited Faculty Union Model

D. Wisconsin Statute [2009] – First major extension of faculty collective bargaining in decades

*Extended bargaining to over 20,000 university faculty and administrative/professional staff

* Limited Faculty Union Model restricted bargaining over key shared governance issues

E. Wisconsin Statute [2011] – Highly restrictive law effectively removing practical impact of faculty bargaining. Some key elements:

*Limits bargaining to “base wages;” requires voter referendum to add amount above cost of living [CPI]

*Annual re-certification of exclusive bargaining status; must win 51% of those in unit, not 51% of those voting

*If less than the 51% is obtained, it becomes an election bar for one year

*Employer may not pay over 88% of health care insurance costs

Models of Faculty Unionization

A. Comprehensive Collective Bargaining Model

The parties enter into collective bargaining as the process for determining the full range of policies and formal practices between the faculty and the university (as their employer).

These include but are not limited to:

- Wages
- Promotion and tenure
- Teaching load (hours)
- Academic rank (job classification)
- Peer evaluation committees and processes
- Academic governance advisory process
- Retirement policies
- Pension programs
- Health insurance
- Life and disability insurances
- Sick leave
- Vacation and holidays
- Academic freedom rights and responsibilities

The parties recognize their relationship as representing an “exclusive agent” arrangement; the university does not enter into formal or binding arrangements with other groups or organizations representing faculty.

In essence, the union fills the broad faculty representation role in lieu of other faculty organizations such as Faculty Senates.

B. Faculty Union as Co-Determiner of Traditional Bargaining Topics and Contractual Enabler of Shared Governance

The parties negotiate traditional collective bargaining topics and create enabling language in the contract regarding continuation of shared governance activities.

The collective bargaining agreement contains provisions for traditional labor-management topics such as wages, benefits, pensions and grievances. It also includes “authorizing or enabling” language regarding shared governance topics.

These shared governance clauses include but are not limited to:
Promotion and tenure processes
Faculty senate structure
Curriculum committee structure

The contract language is normally general in nature. It often takes already established policies and practices and incorporates them by reference. The union reserves the right to negotiate these topics as needed and holds that the employer cannot modify them unilaterally.

C. Faculty Union as Co-Determiner of Traditional Bargaining Topics, while Shared Governance

Topics are Permissive Topics Only

The parties negotiate traditional collective bargaining topics, but any topic relating to shared governance is treated as non-required (permissive).

If the shared governance topics are included, it is normally by reference only. The university reserves the right to modify these policies outside of the collective bargaining process (according to traditional provisions and practices that assure faculty involvement).

If the shared governance topics are in the contract, those provisions are often excluded from the contract grievance and/or arbitration clauses.

D. Limited Faculty Union Model

The parties limit the subjects of bargaining and the content of the collective bargaining agreement to traditional labor-management topics. Faculty governance subjects are reserved for their faculty organizations (Faculty Senate, Faculty Assembly). This restricted/limited approach can be voluntary by the parties or can be mandated by law.