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Non-Tenure Track Faculty Collective Bargaining Outcomes

A work in progress

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Overview

1. Project Goals
2. Information and Methods
3. Analysis of Academic Freedom in Non-Tenure Track CBAs
4. Analysis of Job Security Provisions in Non-Tenure Track CBAs
5. Consideration of Management Rights
6. Conclusion and Questions Moving Forward



Mike Alewitz – “Bread and Roses”

Project Goals

- Historically, the academic profession relied upon free speech and strong job security of tenure as basic working conditions.
 - Academic freedom as the “bread” rather than the “roses.”
- How does this model adjust to accommodate increasing use of non-tenure track labor?
- How does this differ among units organized by different types of unions?

Information

- Analyzed 15 Non-Tenure Track (NTT) Collective Bargaining Agreements From Four-Year Schools:
 - 7 Multi-jurisdictional Unions (SEIU, UAW)
 - 7 Academic-Only (AAUP, AFT, NYSUT, NEA)
 - 1 Jointly Organized

**CBAs included Agreements for four-year schools only and were collected using the AAUP Database and by searching for publicly available CBA's on websites.*

University CBAs Examined

Multi-Jurisdictional Unions

- **SEIU (Adjunct Action) :**
 - George Washington University (Local 500)
 - American University (Local 500)
 - Georgetown University (Local 500)
 - Plymouth State University (Local 1984)
- **UAW**
 - New York University (Local 7902)
 - New School (Local 7902)
 - University of Massachusetts Lowell (Local 1596)

Academics-Only Unions

- **AAUP:** Wright State University
- **AAUP-AFT**
 - Wayne State University
 - University of Illinois-Chicago
- **NYSUT / AFT**
 - Syracuse University
 - Pace (Also NEA)
 - Cooper Union
- **NEA:** Keene State University

Joint Union

- **AAUP, CTA/NEA, SEIU:** California State University

Limitations

- Limited scope of contracts
 - Did not consider mixed tenure-track/tenured/NTT units
 - Did not consider CBAs from 2-year schools
- Our research does not consider organizing, bargaining process, or implementation of CBAs.
- We did not incorporate state statutes regarding mandatory/permissive subjects of bargaining.
- Many more CBAs exist but were unobtainable for us at this point in the research.

Method

Analyzed CBAs on several aspects:

- 1) Academic Freedom
- 2) Job Security
 - a) Reappointment
 - b) Grievance Procedure
- 3) Management Rights

Academic Freedom

1. Incorporation of Academic Freedom definition from faculty handbook
2. Definitions similar to or directly quoting from AAUP's *1940 Statement of Principles on Academic Freedom and Tenure*
3. Location of Academic Freedom within the Contract

Reference to the Faculty Handbook

1/3 of CBAs analyzed refer employees to the faculty handbook to define Academic Freedom:

- Wayne State (AAUP-AFT)
- Syracuse (NYSUT-AFT)
- Pace (NYSUT-AFT-NEA)
- Georgetown (SEIU)
- American (SEIU)

Examples

American University (SEIU): “Employees enjoy the same rights and obligations of academic freedom as do all faculty at American University, as provided in the Faculty Manual.” **(Section 6.6 (B))**

Pace University (NYSUT-AFT-NEA): “The Union and University subscribe to the principles of Academic Freedom as reflected in the Faculty Handbook, and University policies and procedures, as amended from time to time, and shall be applicable to all unit members.” **(Article II)**

Incorporation of Faculty Handbook cont.

For all 5 NTT CBAs incorporating the faculty handbook definition of academic freedom:

The faculty handbook explicitly links academic freedom to tenure...

What does this mean?

Example

Pace University (NYSUT-AFT-NEA): “The University supports in principle the 1940 Statement on Academic Freedom and Tenure approved and amended by the A.A.U.P. and by the Association of American Colleges and Universities... Academic tenure is a guarantee of academic freedom and becomes an integral part of the contract between the individual member of the faculty and Pace University.” **(Faculty Handbook, Article 5)**

Defining Academic Freedom

- Majority of the contracts surveyed (regardless of affiliation with AAUP) contain academic freedom language substantially similar to or quoted/incorporated from the 1940 *Statement of Principles on Academic Freedom and Tenure*

Example

UMass - Lowell (UAW): “endorses the principles and spirit/standards of academic freedom as embodied in the 1940 AAUP Statement of Principles as amended and as modified below...” **(Article XV)**

Location of Academic Freedom Clause within CBA

- CBAs from *traditionally academic unions* tend to place academic freedom earlier in contracts (found before Article 4).
- CBAs bargained by *multi-jurisdictional unions* more often place academic freedom in the middle of the contract (after Article 4).

Appointment, Re-appointment & Job Security

Trends Identified *as written*:

1. “Good Faith Consideration” (Least Secure)
2. Eligibility to receive extended appointment (More Secure)
3. Guaranteed opportunities for advancement (Most Security)

“Good Faith Consideration”

4 CBAs surveyed (3 SEIU and 1 UAW) contained language indicating that “good faith consideration” for reappointment would be earned after 2 years or four semesters

Eligibility to apply for extended appointment

Several CBA's provided opportunities to apply for longer appointments after the faculty member has served for a specified amount of time

Keene State (NEA): "An adjunct faculty member who has served for 20 semesters at the College is eligible to receive an appointment for an entire academic year (Fall and Spring semesters) starting with the first Fall semester after completing 20 semesters at the College."

Opportunities for Advancement

A few contracts offered more opportunities for advancement in contract length contingent on number of years of service.

Wright State (AAUP-AFT): “Appointments for Instructors are for one year (or, if hired as a Member within an academic year, the appointment may include that partial year and the following academic year). Instructor appointments may not be extended beyond a total of six years of service. Instructor positions carry no expectation of continuing employment. Before the Member’s sixth year as an Instructor begins, the University will (a) notify the faculty member that the appointment will not be continued or (b) offer a continuing appointment as a Lecturer with no identified date of termination.” (Article 13 Appointment and Promotion)

Availability of Grievance/Arbitration as a mechanism for resolving disputes relating to non-reappointment

Trends Identified:

1. Explicit Inclusion of Reappointment in Grievance Procedure
2. Explicit Exclusion of Reappointment from Grievance Procedure
3. Vague on Application of Grievance Procedure

Explicit Inclusion of Reappointment

Plymouth State University (SEIU): “The University agrees that any Teaching Lecturer who is not given an appointment due to performance-related reasons may grieve such a decision under the Grievance and Arbitration procedures under the standard of whether the University acted arbitrarily or capriciously.”

The New School (UAW) “Application of this Article [Reappointment], except for augmentation of courses as follows and probation, will be subject to grievance and arbitration.” **(Article XII(G))**

Explicit Exclusion of Reappointment

Issues regarding reappointment and/or selection for extended appointments are explicitly not subject to the grievance and arbitration process.

- UIC (AAUP-AFT), Cooper Union (NYSUT-AFT), Pace (NYSUT-AFT-NEA), UMass Lowell (UAW), Georgetown, GWU, and American (SEIU)

Example

George Washington University (SEIU): “Each appointment ceases at the end of the designated assignment period. The expiration of an assignment or Management’s failure to offer an assignment will not be subject to the just cause standard.” **(Article XVII (B))**

Vague on Application of Grievance Procedure

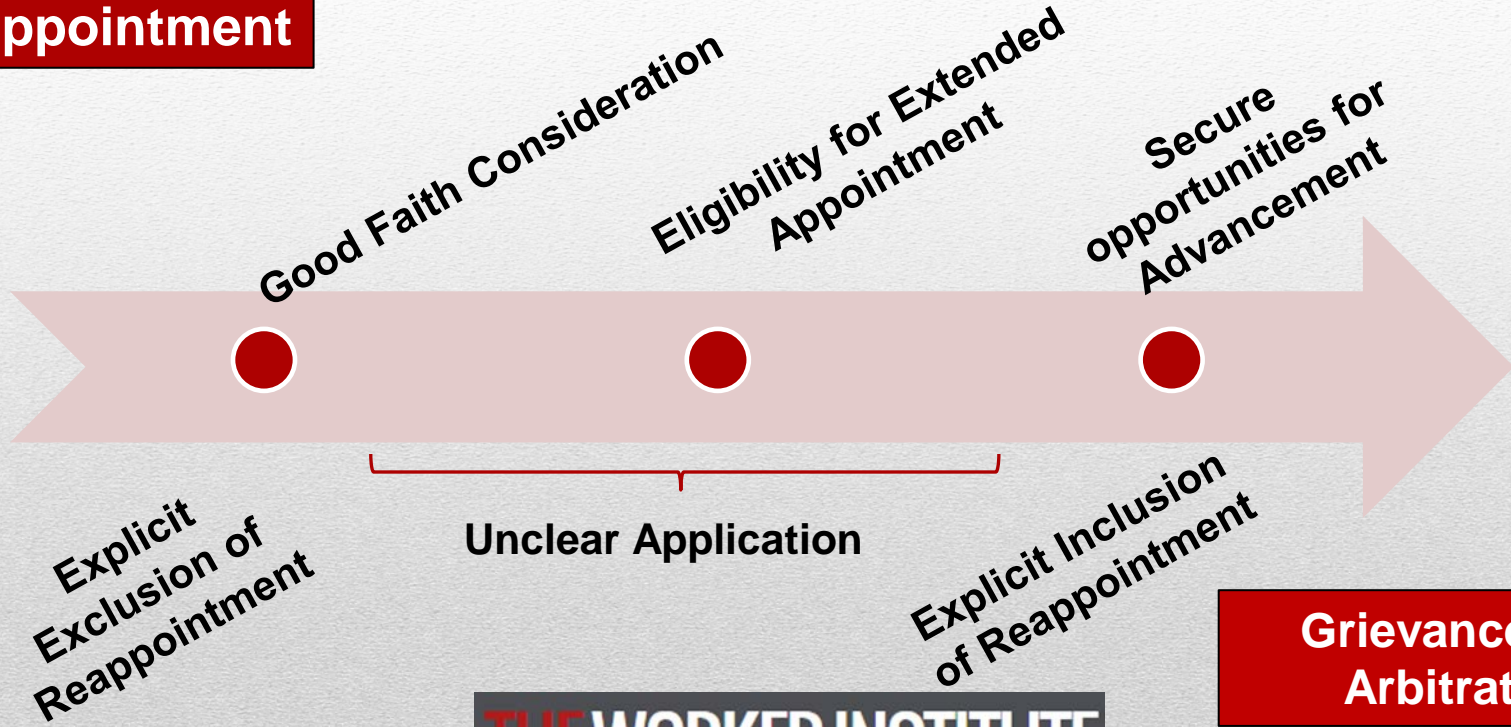
- Some contracts did not specify whether reappointment decisions are grievable.
 - NYU (UAW)
 - Keene State (NEA)
 - Wayne State (AAUP-AFT)

From Employment-at-will to Tenure

Reappointment

Employment-At-

Will



Tenure

Management Rights

- Inclusion of “Academic Matters / Academic Judgment” in management rights clause.
- Sample Language: “Decisions regarding who is taught, what is taught, how it is taught and who does the teaching involve academic judgment and shall be made at the sole discretion of Management” (NYU (UAW), George Washington University, American University (SEIU))

Discussion of Faculty Senate in CBA

Majority of schools (with the exception of UIC (AAUP/AFT), Syracuse (NYSUT/AFT), and Wright State (AAUP)) do not mention:

- Faculty Governance
- Eligibility for Senate Participation
- Protection of Speech in the Context of Faculty Governance Participation

Faculty Participation: Joint Committees

- Most CBAs provided for labor-management committees.
- Committees may discuss/make recommendations on issues of common concern, such as office space.
- In contrast to Faculty Senate, Labor-Management Committees are related to the activities of the Union and representatives are appointed by the Union.

Labor-Management Committees – Sample Language

Syracuse (NYSUT-AFT): “A joint labor/management committee shall be established, comprising representatives from Adjuncts United and the University to meet regularly at a mutually agreeable time and location. The purpose and intent of this joint labor management committee is to ensure open lines of communication and to provide a forum to address and resolve issues emerging from the newly forged working relationship between the University and Union. The committee will meet at least once during the fall and spring semesters each academic year.” **(Article XIV)**

Conclusions

- In terms of defining and protecting Academic Freedom, observable differences are small and subtle between multi-jurisdictional and traditionally academic union contracts.
- Job security and grievance procedures in such contracts vary as depicted on the spectrum between employment-at-will and tenure.
- These factors occur concurrently with a low emphasis on traditional faculty governance and the overbroad inclusion of “academic judgment” under management rights clause.

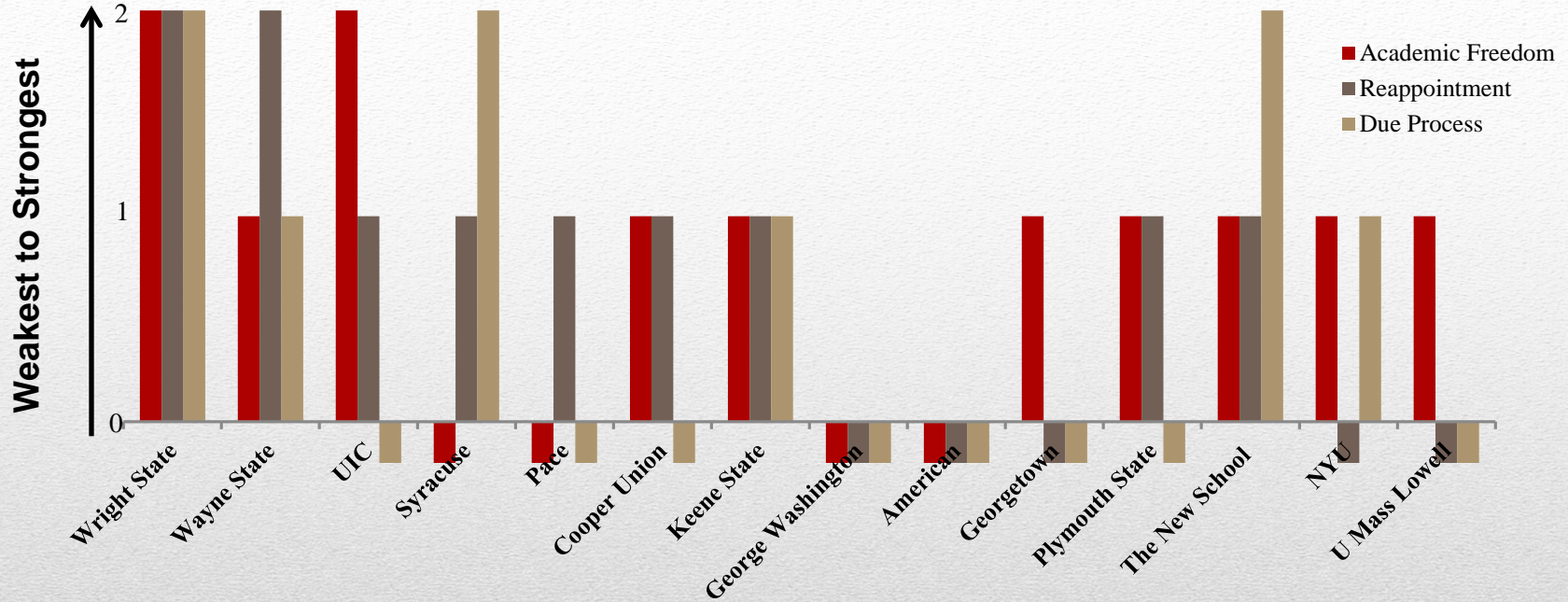
Weak* NTT Language

- **Academic Freedom:**
 - vague and/or confusing, related explicitly to tenure within faculty handbook
- **Reappointment:**
 - No guaranteed advancement opportunities or abstract language such as “good faith consideration”
- **Due Process Rights:**
 - Explicit Exclusion from Grievance/Arbitration

Strong* NTT Language

- **Academic Freedom:**
 - Clearly enumerated rights to academic freedom (including participation in faculty governance)
- **Reappointment:**
 - Continuing appointment more similar to tenure with concrete language determining extended contract length
- **Due Process Rights:**
 - Explicit Inclusion in Grievance/Arbitration

*”Strong” and “Weak” as written



0:	weakest (academic freedom vague or related to tenure , no guarantee of reappointment, explicit exclusion from grievance procedure)
1:	contains both weak and strong elements
2:	strongest (academic freedom clearly enumerated , continuing appointments available , explicit inclusion in grievance procedure)

Implications for Academic Freedom

- Continued job insecurity under reappointment procedures – does this restrict the exercise of Academic Freedom?
- Do non-tenure track faculty work cautiously to ensure reappointment rather than exercise academic freedom to the full extent and risk non-appointment?

Job Security Comparisons

- Job security of tenure
 - Full due process granted before discharge of tenured faculty
 - Limited due process before tenure for tenure-track faculty

- Job security in traditional union workplaces
 - Discipline, discharge, promotion usually grievable under just cause standard.
 - Just cause based on employees with continuing employee status.
 - Unions representing NTT faculty have no or minimal control over hiring or reappointment – what does this mean for overall job security?

Questions going forward

- How do these CBA's operate in practice?
- Are bargaining choices motivated by a desire to return to the traditional system of tenure and faculty governance?
- As many of these are “first contracts,” will contract language regarding academic freedom evolve over time?
- Are Labor-Management committees gap-fillers or substitutes for traditional faculty governance in first contracts to be improved upon later?

Thank you!