

NLRB Ruling on Graduate Student Unionization Frequently Asked Questions (FAQs)

NORTHWESTERN UNIVERSITY'S POSITION

What is the University's position on the issue of graduate student unionization?

Northwestern University has always regarded its Ph.D.-seeking graduate students as students, first and foremost, and the classification of these students as employees would significantly change the relationship between these students, their faculty mentors and the University. Northwestern believes that unionization and collective bargaining are not the appropriate methods to address concerns raised by graduate student assistants.

Northwestern has been, and remains committed to cultivating its relationship with its Ph.D.-seeking graduate students, keeping the lines of communication open, and working collaboratively on issues important to them. The University has been a leader in providing support for graduate students. In May 2015, Northwestern announced that it was investing more than \$6 million in additional funds to increase graduate stipends to \$29,000 a year for the 2015-16 year, a 26 percent increase. The stipends were increased again this year to \$29,880. In addition, Northwestern provides guaranteed funding for five years and a high availability of sixth-year support for Ph.D. students in the Graduate School, as well as excellent health care coverage.

This financial support, coupled with outstanding academic opportunities and mentoring, symbolizes Northwestern's significant commitment to providing outstanding graduate education. In addition, the University believes strongly that teaching experience is an important part of the academic training for Ph.D. students and provide that as well. Teaching experience, which is extremely valuable in the academic job market, enhances learning for those students while improving communication and other skills.

As a result of its significant emphasis on graduate education, the University attracts some of the best graduate students in the world and prepares them to be scholars and thought leaders of the future.

We will work directly with our graduate students on this matter moving forward, as it is critical that they fully understand the implications of unionization so they can make informed decisions. We encourage graduate students and all impacted parties to gather as much information as possible, ask questions, explore the pros and cons of unionization, and thoroughly examine the associated complex issues prior to making any decisions.

NATIONAL LABOR RELATIONS BOARD (NLRB)

What is the NLRB?

The NLRB (also called the Board) is an agency of the United States government that enforces and oversees administration of the National Labor Relations Act (NLRA), the federal labor law that covers most private employers. The Board has two principal functions:

- To hold secret ballot elections to determine if employees wish to be represented by a union for purposes of negotiating and establishing the terms and conditions of employment with their employer and, if so, by which union;
- To prevent and remedy unlawful acts (called unfair labor practices) committed by employers or unions.

The Board does not act on its own initiative. Rather, it processes only those charges of unfair labor practices and petitions for employee elections that are filed with the NLRB in one of its regional offices, each of which is run by a regional director. The Board has published an overview of employer/union rights and obligations and it can be accessed here:

<https://www.nlr.gov/rights-we-protect/employerunion-rights-and-obligations>.

Who is impacted by the NLRB's ruling?

Graduate students performing services as teaching or research assistants are impacted.

What does the NLRB's decision mean for Northwestern?

It allows graduate students who perform services as teaching or research assistant to attempt to form a union if they feel it is in their best interest to do so.

UNION BASICS

What is a union?

A union is a third-party organization that serves as a representative for a group of employees, negotiating with the employer to establish terms and conditions of employment on their behalf. A union typically charges its members for providing this service in the form of dues.

What is a bargaining unit?

The bargaining unit is the group of employees with a clear and identifiable community of interests who seek to form a union. The union creates the initial definition of what constitutes the bargaining unit but that unit definition must be approved by the NLRB.

What are the steps in moving forward with forming a union?

The union will need to obtain authorization cards from at least 30% of the bargaining unit. Once that is done, it can present the cards to the NLRB and request an election.

What are authorization cards, and why do unions collect them?

Authorization cards are signed, written, or electronic declarations submitted by members of a potential bargaining unit stating that they want a particular union to be their exclusive representative for the purposes of negotiating the terms and conditions of their employment. Typically, unions collect authorization cards as part of an organizing drive – that is, an attempt to show that there is an interest in unionizing and a desire to have the union serve as the exclusive bargaining agent.

What can a union do with the cards it collects?

A union can submit the cards in support of a petition for a representation election to the National Labor Relations Board (NLRB).

If a person signs an authorization card does that mean they must vote “yes” for a union?

No. Each potential bargaining unit member is always free to vote his or her conscience. The voting process is described below in the section titled “THE ELECTION.”

Does union membership cost money?

If you are represented by a union, you may be charged dues, initiation fees, fines, and assessments, among other requirements. Unions set rates without employer input, and often seek to have dues and fees taken out of its members’ pay checks.

Am I obligated to join?

If the outcome of an election is a decision to unionize, and your academic program or school is included in the bargaining unit, you are obligated to be represented by the union. You may decide not to join the union or pay associated dues, but representation will often require you to pay an agency fee to the union. This agency fee is essentially a service charge for the costs borne by the union in administering the labor agreement. Unions will typically seek to include a “union security clause” in the collective bargaining agreement to ensure they can collect this fee.

How will a union change my academic relationships?

Membership in a union may change your relationship with Northwestern, your department, school or academic program, in ways that cannot be foreseen. The presence of a third party may result in an increasingly regulated environment, in which traditionally informal academic relationships are instead governed by union regulations and requirements.

I have been contacted to voice my endorsement for a union. Is there a mechanism where those opposed to a graduate student union can voice their dissent?

Graduate students who are opposed to a union can express their opinion to the other graduate students in the bargaining unit – either in writing or in person. Additionally, Northwestern has a website regarding the unionization process and can post such letters on the website.

Can the union give away benefits graduate students already have?

Yes, while it is possible that collective bargaining could result in represented graduate students getting more than they had when negotiations began, it is equally possible that terms will remain generally unchanged or that represented graduate students could get less than they had when negotiations began.

Can a union dictate terms at Northwestern if it can successfully organize graduate students at other local schools?

No. Even if a union represented graduate students at several other schools, terms negotiated elsewhere would not apply here, and the University would not agree to the union’s proposals simply because some other local institution has done so, nor would it be required to do so.

COLLECTIVE BARGAINING

What is collective bargaining?

Collective bargaining is a process by which a union and the University negotiate over the terms and conditions of employment, such as pay and benefits for all members in the bargaining unit. A union has the authority to bargain on your behalf for future pay, terms of appointment, benefits, and working conditions. Wages, benefits, and other working conditions do not change automatically after employees vote for union representation; rather, to the extent these items change at all, it is only if and when an overall agreement is reached between Northwestern and the union.

What does collective bargaining involve?

Collective bargaining is typically conducted in a series of in-person meetings at which representatives of both the union and Northwestern exchange written proposals for a collective bargaining agreement (also called a “union contract” or a “labor contract”). The negotiations can take months and sometimes more than a year. During this time, the National Labor Relations Act (NLRA) requires Northwestern and the union to engage in “good faith” negotiations over terms and conditions of employment. This means the parties must meet, confer, and consider each other’s proposals. However, the duty does not require compromise or agreement to any particular proposal, and does not require the parties to reach an overall agreement.

What topics are typically part of a collective bargaining agreement?

In a university setting, bargaining topics would typically include wages, work hours, pay, health insurance, retirement plans, appointment duration, disciplinary procedures, etc. Examples of other possible topics include hiring conditions and criteria, changes in the scope or definition of the bargaining unit, inclusion of supervisors in the bargaining unit, internal union matters, and designation of the other party’s negotiating team.

Would all members of the bargaining unit play a role in negotiating a collective bargaining agreement?

No. Usually, collective bargaining is conducted by union agents and a small group of bargaining unit members who negotiate the contract with the university.

How can I ensure that my concerns are addressed in the collective bargaining agreement?

While a union may solicit individuals concerns, it cannot guarantee that some or any of those concerns will be addressed in the collective bargaining agreement. There is no way for an individual to ensure that his or her concerns are adequately addressed, because a small bargaining team negotiates the collective bargaining agreement and does so on behalf of the entire unit.

Are there any guarantees in the collective bargaining process?

No, there is a common misperception that current terms and conditions of employment serve as the baseline and can only be improved through collective bargaining by a union. This is not true. There are no guarantees.

THE ELECTION PETITION

What does it mean to submit a representation petition to the NLRB?

A petition is a formal request addressed to the NLRB to determine by secret ballot election whether a majority of employees in a potential bargaining unit wishes to be represented by a particular labor organization for the purposes of collective bargaining. When submitting a petition, a union must show that at least 30 percent of the employees in the appropriate bargaining unit want the union to be their bargaining agent.

Has a union filed a petition for Northwestern graduate students?

No, a petition has not been filed.

What happens if a union wins an election?

If the union wins a majority of votes, then the University will be obligated to enter into collective bargaining with the union.

What happens if a union and the University are unable to reach agreement on a labor contract?

If a union and the University cannot reach agreement after engaging in good faith bargaining, normally the employer makes its final proposal, often called a “last, best, and final offer.” In response, the union normally will ask its members to vote on the proposal. If the members of the bargaining unit vote to accept (or “ratify”) the offer, then the parties have a collective bargaining agreement. If the members of the bargaining unit reject the offer, then there is no agreement. If there is no agreement, the union may decide to strike. Also, once a genuine impasse is reached, the employer has the right to implement unilaterally its last, best, and final offer, though with the parties are obligated to continue bargaining in an effort to reach an agreement.

If a union wins an election, how will this impact my current stipend and other benefits?”

There is a common misperception that current terms and conditions of employment serve as the floor and can only improve with collective bargaining. This is not true. There is no guarantee that a union could negotiate improvements in pay, governance, benefits or other working conditions. Indeed, it is impossible to say what will happen to the compensation and benefits that you currently receive; they may diminish, improve or stay the same. In light of this inherent uncertainty, you should educate yourself about what collective bargaining will mean for you and what it would mean to be represented by this Union.

What rights would the University have under a labor contract?

Often, in labor contracts employers expressly reserve their right to run their operations, and this reservation of rights is embodied in what is called a “management rights” clause. Although no one can predict what might be included in a management rights clause here, it is helpful to consider such clauses that other institutions have negotiated at the bargaining table with a union in connection with graduate student bargaining units.

Can the University make exceptions to provisions in the contract to accommodate the individual needs of individual members of the unit?

No, unless such exceptions are provided for in the labor contract or otherwise agreed to by the union.

What if we decide later that we do not want a union? When is the next opportunity to vote out the union or change the union representation?

Union elections are not like political elections, set on a recurring timeline. Once a union is in place, it may stay in place indefinitely. The process of ending representation by a union, called “decertification,” is subject to a complex set of legal rules and is very difficult to successfully accomplish. If the union is voted in, it cannot be decertified for a minimum of one year, even if the vast majority of bargaining unit employees realize they no longer want union representation. And if, during that one-year period, the union and Northwestern sign a collective bargaining agreement, that agreement would serve as a bar to any attempt to decertify the union for up to an additional three years. The bottom line is that once a union is voted in, it is extremely difficult to decertify.