

THE GRADUATE ASSISTANT LABOR
MOVEMENT, *NYU* AND ITS AFTERMATH: A
STUDY OF THE ATTITUDES OF
GRADUATE TEACHING AND RESEARCH
ASSISTANTS AT SEVEN UNIVERSITIES

I. INTRODUCTION

On October 31, 2000, the National Labor Relations Board (“NLRB” or “Board”) returned what was perhaps the most controversial decision of this new millennium in *New York University* (“*NYU*”).¹ By holding that the term “employee,” as defined in § 2(3) of the National Labor Relations Act (“NLRA” or “Act”), did in fact cover graduate student teaching assistants at private universities, the NLRB unintentionally turned private university academia on its head. Previously, graduate assistants² at public universities were excluded from the coverage of the NLRA under the same provision that exempts government employers. On a number of occasions, the Board had declined to assert jurisdiction over private universities, consistently denying the Act’s applicability in these instances.

The *NYU* ruling was seen by many as a victory for graduate assistants all over the country. As with other statutorily recognized employees,³ graduate assistants can now hold elections and vote to bargain collectively with a particular university. Thus, wages, hours, and benefits previously negotiated on an individual basis are now subject to collective negotiation. This newly recognized right sent shock waves through many of the nation’s most prestigious private educational institutions.

1. 332 N.L.R.B. 1205 (2000).

2. For the purposes of this discussion, the terms “graduate students” and “graduate assistants” are synonymous. It is important to note that not all graduate students are graduate assistants.

3. Under the NLRA employees have the “right to self-organization, to form, join, or assist labor organizations, to bargain collectively through representative of their choosing, and to engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection.” 29 U.S.C. § 157 (2002).

There were two principal arguments set forth by universities in opposition to graduate assistant collective bargaining: 1) work performed by graduate assistants “is primarily educational”⁴ and 2) requiring administrators to bargain with graduate organizers would infringe upon academic freedom.⁵ The Board squarely rejected these two arguments in *NYU*.⁶ In doing so, the Board concluded that unlike other students “graduate assistants . . . perform work, or provide services, for the [university] under terms and conditions controlled by the [university].”⁷ The Board also went on to state that “graduate assistants’ working conditions are no different from those of the [institution’s] regular faculty.”⁸ The Board was also not persuaded by the academic freedom argument offered by New York University.⁹ While administrators believed that granting recognition under the Act would ultimately result in bargaining with graduate unions over educational issues such as class size, course offerings, and lecture hall materials, thus impeding academic freedom,¹⁰ the Board concluded, “speculation over what [a union] might seek to achieve in collective bargaining” is just that: pure speculation.¹¹ As discussed in Part II of this note, the language of the NLRA demonstrates that this argument may not be well founded. Section 158(d) of the NLRA states that employees and employers are obligated to collectively bargain “in good faith with respect to wages, hours, and other terms and

4. *New York Univ.*, 332 N.L.R.B. at 1207.

5. *Id.* at 1208. Academic freedom can be described as the “academic prerogatives” of colleges and universities throughout the country. *Id.* at 1209. See also *Sweezy v. New Hampshire*, 354 U.S. 234, 263 (1957) (Frankfurter, J. concurring) (indicating that academic freedom is the freedom of the university “to determine for itself on academic grounds who may teach, what may be taught, how it shall be taught and who may be admitted to study”); *St. Claire’s Hosp. & Health Ctr.*, 229 N.L.R.B. 1000, 1003 (1997) (describing academic freedom as encompassing “not only the right to speak freely in the classroom[], but also such fundamental matters as the right to determine course length and content; to establish standards for advancement and graduation; to administer examinations; and to resolve a multitude of other administrative and educational concerns”).

6. *New York Univ.*, 332 N.L.R.B. at 1205, 1207, 1208–09.

7. *Id.* at 1207.

8. *Id.* at 1208.

9. *Id.*

10. *Id.* See Bruce Fellman, *States of a Union*, YALE ALUMNI MAG., http://www.yalealumni.com/issues/01_10/gesso.html (Oct. 2001) (last visited April 12, 2004). Yale University President Richard C. Levin contends that “unionization is simply ‘not in the best interests of graduate students themselves, undergraduates, or faculty.’” According to President Levin, “[u]nions tend to impose uniformity, and while that may be desirable in an industrial setting, the one-size-fits-all approach doesn’t translate effectively to our model of graduate education.” *Id.*

11. *New York Univ.*, 332 N.L.R.B. at 1208. Previously, the Board had explained that “[it] need not define . . . the boundaries between permissive and mandatory subjects of bargaining . . . and between what can be bargained over and what cannot.” *Boston Med. Ctr. Corp.*, 330 N.L.R.B. 152, 164 (1999).

conditions of employment.”¹² Even a liberal reading of this language does not necessarily include such things as class size, course offerings, or lecture hall materials. The experiences of faculty unions at universities further serve to undermine this contention put forth by administrators.¹³

Both sides had reservations and certain expectations about what would follow from the *NYU* decision and the impact the decision would have on academia. This note will conduct and use the results of an empirical study conducted at seven universities to measure the effects of the Board’s ruling in *NYU*, the consequences for graduate assistants, and the challenges graduate students continue to face from faculty and administrators. This note will also attempt to identify the issues that continue to drive this debate and, lastly, it will offer suggestions on what graduate organizers, administrators and unions can do differently in the future to avoid workplace strife.

Graduate students and adjunct faculty members serve as a pool of cheap labor for universities. This trend seems to suggest that universities would not be able to function without the use of graduate assistants and adjunct faculty members to supplement their decreasing full-time faculties.¹⁴

Currently, the makeup of graduate assistant unions can be viewed as relatively short-term or transitory. Many students are affiliated with institutions for anywhere from three to seven years in order to complete their degrees. The collective bargaining process may, in all likelihood, create tension between graduate assistants and members of the administration and faculty at universities. Academic institutions will not be immune from long and protracted labor disputes that may result from labor negotiations between graduate assistants and their employers. The remaining parts of this note will explore the fight of graduate students to unionize, using the results of our survey (“survey”).

Presently, there are NLRB appeals pending at a number of private universities. These include University of Pennsylvania, Brown University, Columbia University and Tufts University.¹⁵ The outcomes in these

12. 29 U.S.C. § 158(d) (2002).

13. *New York Univ.*, 332 N.L.R.B at 1208 (stating that “[a]fter nearly 30 years of experience with bargaining units of faculty members, we are confident that in bargaining concerning units of graduate assistants, the parties can ‘confront any issues of academic freedom as they would any other issue of collective bargaining’”).

14. See *infra* text accompanying notes 96–98.

15. Sarah LaBrie, *URI Graduate Student Union Supported by School, State*, THE BROWN DAILY HERALD, Oct. 7, 2003, No. 87, <http://www.browndailyherald.com/stories.asp?storyID=1518> (last visited Apr. 20, 2004).

appeals will be followed closely by administrators and graduate union organizers at private universities across the country. As a result of the appeals filed, graduate assistants may no longer continue to find themselves recognized as “employees” under the NLRA. Instead, the Board may once again reverse course and return to the use of the “primary purpose test”¹⁶ in order to exclude graduate assistants from the bargaining table.

Part II will discuss the pertinent provisions of the NLRA and explore the historical background of unionization efforts of graduate organizers at private universities. Part III will analyze the *NYU* decision by looking at how the cases prior to it influenced the NLRB and the reasons that resulted in a shift in position by the Board in *NYU*. Specifically, Part III will explore the shift from the “primary purpose test,” previously used by the Board to deny “employee” status to graduate students, to the new “service test”¹⁷ used in *NYU*. Part IV will discuss the survey, including the criteria used to select those universities that participated. Part V examines the responses to the survey and specifically provides an explanation of the data received. Finally, Part VI will discuss our conclusions based on the responses and offer our insights for the future.

II. THE NLRA AND A HISTORICAL ANALYSIS OF GRADUATE ASSISTANT UNIONIZATION EFFORTS

A. The National Labor Relations Act

The NLRA provides the current set of federal rules and regulations governing labor relations between certain employees and employers. It was adopted to “promote the full flow of commerce, to prescribe the legitimate rights of both employees and employers in their relations affecting commerce.”¹⁸ Under the NLRA, “employees shall have the right to self-organization, to form, join, or assist labor organizations, to bargain collectively through representation of their own choosing, and to engage in other concerted activities for the purpose of collective bargaining.”¹⁹ The NLRA prohibits certain actions by employers and employees to en-

16. Grant M. Hayden, “*The University Works Because We Do: Collective Bargaining Rights for Graduate Assistants*,” 69 *FORDHAM L. REV.* 1233, 1247 (Mar. 2001).

17. New York Univ., 332 N.L.R.B. 1205, 1206–07 (2000).

18. 29 U.S.C. § 141 (2002).

19. 29 U.S.C. § 157 (2002). Employees may also refrain from exercising this right. *Id.*

sure the free exercise of these statutorily granted rights.²⁰ For example, an employer may not 1) “interfere with, restrain, or coerce employees in the exercise of [their] rights guaranteed” under the NLRA, 2) “dominate or interfere with the formation or administration of any labor organization or contribute financial or other support to it,” 3) “discriminat[e] in regard to [the] hir[ing] or tenure of employment . . . or discourage membership in any labor organization,” 4) fire an employee on the basis of filing an unfair labor practice charge, and 5) “refuse to bargain collectively with representatives of his [or her] employees.”²¹ Similarly, a labor organization may not 1) coerce an employee in the exercise of his or her rights guaranteed under the NLRA; 2) attempt to cause an employer to discriminate against an employee in regard to hiring, tenure and terms and conditions of employment; and 3) refuse to bargain collectively with his or her employer.²² Generally, limitations placed on labor organizations also govern strikes by employees, picketing, and extortion.²³ However, the NLRA does not cover all employees. Its coverage is limited by the statutory definitions of the terms “employer” and “employee.” An employer is defined as any “any person acting as an agent of an employer, directly or indirectly.”²⁴ An employee is defined as “any employee . . . unless this subchapter explicitly states otherwise.”²⁵ The statute specifically exempts the following workers: agricultural workers, employees of the United States government, any state or political subdivision, domestic servants, independent contractors, supervisors, and workers employed by employers subject to the Railway Labor Act.²⁶ In all cases, the jurisdictional test—“a labor dispute would burden or obstruct commerce”²⁷—must be met in order for the Board to adjudicate a dispute. Last, the NLRB may decide to exempt employees from coverage under the NLRA on public policy grounds.

In addressing the question of whether graduate teaching assistants are covered under the NLRA, a court may reach three possible conclu-

20. 29 U.S.C. § 158 (a)-(b) (2002). *See also* LINDA G. KAHN, *PRIMER OF LABOR RELATIONS* 25 (25th ed. 1994).

21. 29 U.S.C. § 158 (a)(1)-(5) (2002).

22. 29 U.S.C. § 158 (b)(1)-(3) (2002). *See also* Bernhard Wolfgang Rohrbacher, Note, *After Boston Medical Center: Why Teaching Assistants Should Have the Right to Bargain Collectively*, 33 *LOY. L.A. L. REV.* 1849, 1854-55 (1999-2000).

23. 29 U.S.C. § 158 (b)(4)-(7) (2002).

24. 29 U.S.C. § 152 (2) (2002).

25. 29 U.S.C. § 152 (3) (2002).

26. *Id.* Graduate assistants at public or state-run universities are exempted from the NLRA. Labor relations at public universities are governed by state labor laws. Hayden, *supra* note 16, at 1234.

27. 29 U.S.C. § 151-168 (2002).

sions. First, the NLRB may adopt a rigid approach to the classification of graduate teaching assistants and “conceive of graduate [assistants] as . . . *either* students *or* employees.”²⁸ Second, the NLRB may depart from using two rigid categories and look to the “primary purpose” of the graduate teaching assistants.²⁹ Third, the NLRB may recognize that graduate assistants are employees but “may still exclude student employees . . . from coverage by the Act on public policy grounds.”³⁰ The Board’s conclusion on the question of whether a graduate teaching assistant should be covered has shifted over the last half century.

B. The History of Graduate Assistant Unions and Unionization Efforts

The right of graduate assistants to collectively bargain with their employers began more than thirty years ago at public universities, such as the University of Wisconsin,³¹ and continues today at public universities nationwide under state employment laws. The graduate assistants’ struggle lasted considerably longer at private universities with recognition coming only a few short years ago when the NLRB handed down its decision in *NYU*. Graduate assistants at private universities face many of the same employment issues as their counter-parts at public universities, and have increasingly turned to collective bargaining as a means to address their employment disputes.³²

1. What is a Graduate or Research Assistant?

Generally, the broad term “graduate assistant” is used to describe those classified as teaching assistants, research assistants and general graduate assistants.³³ Graduate assistants are graduate students working toward their advanced academic degrees.³⁴ Typically, their employment is linked to their continued status as students.³⁵ Teaching assistants have full responsibility for either teaching lecture classes or for leading small discussion sections for larger lecture classes taught by faculty mem-

28. Hayden, *supra* note 16, at 1247 (emphasis in original).

29. *Id.*

30. Rohrbacher, *supra* note 22, at 1856.

31. Hayden, *supra* note 16, at 1234.

32. *Id.*

33. *New York Univ.*, 332 N.L.R.B. at 1210.

34. *Adelphi Univ.*, 195 N.L.R.B. 639, 640 (1972); *see also* Ass’n Graduate Student Employees v. Regents of the Univ. of Cal., 13 P.E.R.C. (LRP) P20,087 (1989) (finding two primary categories of assistants-researcher and instructor).

35. *Adelphi Univ.*, 195 N.L.R.B. at 640.

bers.³⁶ Research assistants primarily aid professors within a particular department with field and laboratory research.³⁷ Both types of assistantships are half-time appointments, intended to be no more than twenty hours per week, “though the actual number of hours spent teaching and researching varies tremendously.”³⁸ Graduate assistants are not considered faculty.

[They] do not have faculty rank, are not listed on the University’s catalogues as faculty members, have no vote at faculty meetings, are not eligible for promotion or tenure, are not covered by the University personnel plan, have no standing before the University’s grievance committee, and, except for health insurance, do not participate in any of the fringe benefits available to faculty members.³⁹

However, graduate assistants can be elected to represent their graduate student peers on student-faculty committees.⁴⁰

2. The NLRA and the “Primary Purpose Test”

As we have seen, at private universities, the labor rights of graduate assistants are governed by the NLRA.⁴¹ The Board’s recognition of a federal policy aimed at distinguishing between labor and management has led to the exclusion of certain classes of employees from protection afforded by the NLRA.⁴² The central question that the Board answered in some of its earliest cases was whether graduate assistants were statutory employees entitled to the protection of the NLRA.

a. *Columbia University*

The test initially adopted by the Board to determine whether a graduate assistant was an employee came to be known as the “primary purpose test.”⁴³ In 1951, in *Columbia University*,⁴⁴ the NLRB denied a

36. Hayden, *supra* note, 16 at 1236.

37. *Id.*

38. *Id.*

39. Hayden, *supra* note 16, at 1238 (quoting *Adelphi*, 195 N.L.R.B. at 640).

40. *Adelphi Univ.*, 195 N.L.R.B. at 640. Although there are distinctions among the various sub-groups of graduate assistants, for the purposes of this note, all will be included under the term “graduate assistant.”

41. Hayden, *supra* note 16, at 1234.

42. *Cedars-Sinai Med. Ctr.*, 223 N.L.R.B. 251, 254 (1976) (Fanning, member, dissenting).

43. *Tr. of Columbia Univ.*, 97 N.L.R.B. 424 (1951) (essentially, the Board looked to the “primary purpose” of the graduate assistants at the various universities involved in the early cases.)

union's petition for representation of clerical employees at the University, finding support for its decision in the legislative history of the NLRA and its charitable hospital exemption in § 2(2).⁴⁵ The Board held that it did not effectuate the policies of the Act to exercise jurisdiction over a "nonprofit, educational institution where the activities involved [were] noncommercial in nature and intimately connected with the charitable purposes and educational activities of the institution."⁴⁶

b. *Adelphi University*

In 1972, the NLRB decided the case of *Adelphi University* ("*Adelphi*"),⁴⁷ holding that graduate assistants did "not share a sufficient community of interest with the regular faculty to warrant their inclusion in the [bargaining] unit."⁴⁸ In *Adelphi*, the administration sought to include graduate and research assistants as part of the bargaining unit of all full-time and regular part-time faculty.⁴⁹ The Board explained in *Adelphi* that graduate assistants were primarily students, not faculty, and therefore did not derive any of the benefits associated with the faculty rank.⁵⁰ The Board stated, "we find that the graduate teaching and research assistants here involved, although performing some faculty-related functions, are primarily students and do not share a sufficient community of interest with the regular faculty to warrant their inclusion in the unit."⁵¹

In making its argument to the Board, the graduate students at Adelphi University pointed to the Board's decision in *C.W. Post Center of Long Island University* ("*LIU*"),⁵² where the Board had previously included a research associate in a professional unit.⁵³ The Board, however, distinguished the research associate in *LIU* from the graduate assistants in *Adelphi* and held that since the research associate had already com-

44. *Id.*

45. The charitable hospital exclusion, added by the Labor Management Relations Act in 1947, was later deleted by Public Law 93-360 in 1974.

46. *Tr. of Columbia Univ.*, 97 N.L.R.B. at 427.

47. *Adelphi Univ.*, 195 N.L.R.B. at 639.

48. *Id.* at 640 & n.8.

49. *Id.* at 639, 640. Adelphi University is a private educational institution in New York that, at the time, employed 125 graduate assistants who were working toward their advanced degrees. *Id.* The tasks performed by the graduate assistants included preparing examinations, grading papers, teaching laboratory courses, and sometimes substitute teaching when faculty members were absent. *Id.* at 640.

50. *Adelphi Univ.*, 195 N.L.R.B. at 640.

51. *Id.* & n.8.

52. 189 N.L.R.B. 904 (1971) (hereinafter "*LIU*").

53. *Id.* at 906-07.

pleted his doctoral degree, he was not simultaneously a student and was therefore eligible for tenure.⁵⁴ In *LIU* the Board found a sufficient community of interest between the research associate and the faculty.⁵⁵ Such community of interest was not found to exist in *Adelphi*.⁵⁶

c. Leland Stanford Junior University

In 1974, the NLRB affirmed the *Adelphi* decision in the case of *Leland Stanford Junior University* (“*Leland Stanford*”).⁵⁷ In dismissing a petition filed by the Stanford Union of Research Physicists, the Board rejected the research assistants’ contention that they were student-employees, paid through the University’s normal payroll machinery for work they were required to perform in order to further their degrees and receive their salaries.⁵⁸ Instead, the Board accepted the employer’s contention that the research assistants were students and not employees.⁵⁹ The Board found that the “payments to the [research assistants] were in the nature of stipends or grants to permit them to pursue their advanced degrees.”⁶⁰ The size of the stipend received by the students was not determined “by the ‘services’ rendered or their intrinsic value”; rather the amounts were provided by an outside foundation.⁶¹ The Board held that although the research assistants’ stipends were paid according to the same method used to determine those paid to other employees, they did not share the same fringe benefits that other employees enjoyed.⁶² More importantly, the payments to the research assistants were treated as tax-exempt income.⁶³ Therefore, payments to the students, according to the

54. *Adelphi Univ.*, 195 N.L.R.B. at 640 n.8. Ironically, it was the employer in this case who argued that graduate teaching and research assistants should be included in the bargaining unit with the full-time and regular faculty. *Id.* at 639. Faculty unions do not necessarily embrace the notion of including graduate teaching and research assistants as part of their bargaining units. Many graduate student union organizers are affiliated with the United Auto Workers (UAW), Communication Workers of America, AFL-CIO (CWA), Hotel Employees and Restaurant Employees International Union, AFL-CIO (HERE), and the American Federation of Teachers, AFL-CIO (AFT). *Unions that Represent Graduate Teachers and Researchers*, available at <http://www.yaleunions.org/geso/history/gradunions.htm#recognized> (last visited Apr. 21, 2004).

55. *LIU*, 189 N.L.R.B. at 907.

56. *Adelphi Univ.*, 195 N.L.R.B. at 640 & n. 8.

57. *Leland Stanford Junior Univ.*, 214 N.L.R.B. 621 (1974) (hereinafter “*Leland Stanford*”).

58. *Leland Stanford*, 214 N.L.R.B. at 621.

59. *Id.*

60. *Id.*

61. *Id.* at 622. The level of the stipend is set by the National Science Foundation Fellowship. *Leland Stanford*, 214 N.L.R.B. at 622.

62. *Id.*

63. *Id.* at 622.

Board, were not wages and it consequently found that the research assistants were not statutory “employees” as defined under the NLRA.⁶⁴

The “primary purpose test” was traditionally used by the NLRB in determining whether students, who also performed some form of work for the institution in which they were enrolled, could also be considered employees under the NLRA.⁶⁵ In these cases, the NLRB had consistently applied the “primary purpose test” and held that students who were employed as research or graduate assistants were not employees within the meaning of the NLRA because their employment was primarily for educational, rather than economic, purposes.⁶⁶

The “primary purpose test” used by the Board, which prevented graduate assistants from joining or forming collective bargaining units, prevailed for over two decades. A shift in the Board’s position however, began to appear in a number of dissenting opinions during the mid-1970s.

d. The *Housestaff*⁶⁷ Cases

Beginning in 1976, the adherence to the primary purpose test was criticized from within the Board itself. In *Cedars-Sinai Medical Center* (“*Cedars-Sinai*”),⁶⁸ NLRB Chairman Fanning (“Fanning”) criticized the Board’s “primary purpose test” as it applied to the denial of graduate students’ rights under the NLRA.⁶⁹ In his dissent, Fanning stated that the term “employee” should be applied liberally to include even those who are “primarily students.”⁷⁰

Similarities existed between the various strings of housestaff cases decided by the Board in the 1970s. In each of these cases, the housestaff participated in training programs consisting of “patient care activities coordinated with a variety of teaching and educational activities.” The housestaff also enrolled in various specialty programs and received an

64. *Id.* at 621.

65. *Id.* at 623. See also *Adelphi Univ.*, 195 N.L.R.B. at 640 & n.8.

66. *Id.* at 622. See generally, *Adelphi Univ.*, 195 N.L.R.B. at 640.

67. The term “housestaff” is commonly used by medical and hospital personnel when referring collectively to interns, residents, and clinical fellows. *Cedars-Sinai Med. Ctr.*, 223 N.L.R.B. 251, 251 (1976).

68. 223 N.L.R.B. 251 (1976). In this case the NLRB agreed with the employer that the unit composed of interns, residents, and clinical fellows is inappropriate because each of the groups are students and not employees. *Id.* The Board held that while they possess certain employee characteristics, they are primarily students. *Id.*

69. *Cedars-Sinai Med. Ctr.*, 223 N.L.R.B. at 254 (Fanning, member, dissenting).

70. *Id.*

annual stipend.⁷¹ The amount of the stipend received by the housestaff was not determined by the nature of the services rendered or by the number of hours spent in patient care; instead the annual stipend was disbursed on a sliding scale from a first-year to a fifth-year resident.⁷² Moreover, the tenure of interns and residents at various institutions was closely related to the duration of the program each individual pursued.⁷³ Few interns, residents, or fellows remained at the institution as permanent employees.⁷⁴ On these facts, the Board held in each one of these cases that the housestaff was primarily involved in graduate educational training and refused to recognize the interns, residents, or fellows as employees under the NLRA.⁷⁵

In his dissent to *Cedars-Sinai*, Fanning stated that the relationship between employee and student cannot be mutually exclusive.⁷⁶ According to Fanning, the term employee is derived from the common law concept of servant.⁷⁷ He argued that the term employee should be construed within its conventional meaning—"a person who works or performs a service for another from whom he or she receives compensation."⁷⁸ Fanning emphasized the fact that "liability can be imposed upon the hospital for the actions of its housestaff . . . [was] further demonstration that housestaff work for the hospital."⁷⁹ Fanning points to the various services performed by the housestaff at hospitals, including staffing emergency rooms, working shifts in excess of fifty consecutive hours, administering tests, and performing other functions on patients, oftentimes without the supervision of a physician.⁸⁰ To further support his position, Fanning also stated that hospitals charged a fee to the patients for the services performed by housestaff and paid the housestaff a stipend which was taxed.⁸¹

71. *Id.* at 252.

72. *Id.*

73. *Id.*

74. *Id.* at 253.

75. *Id.* "[The housestaff] participate in these programs not for the purpose of earning a living; instead they are there to pursue the graduate medical education that is a requirement for the practice of medicine. An internship is a requirement for the examination for licensing. And . . . to qualify for certification in specialties and subspecialties." *Id.*

76. *Id.* at 254 (Fanning, member, dissenting).

77. *Id.*

78. *Id.* at 255.

79. *Id.* & n.16.

80. *Id.*

81. *Id.* The hospital also offered the housestaff fringe benefits such as sick and vacation allowances. *Id.* at 256.

More importantly, Fanning says that the treatment by the Internal Revenue Service of the stipends paid to housestaff further demonstrated that they are statutory employees.⁸² Under § 117 of the Internal Revenue Code,⁸³ fellowships and scholarships are, under most conditions, excludable from gross income.⁸⁴ Such stipends are not excludable, however, if they constitute compensation for services rendered.⁸⁵ From all of this, Fanning concluded that the majority erred in reaching its decision that housestaff are not covered by the NLRA.⁸⁶

e. *St. Claire's Hospital*

Despite a lack of support for his position from his colleagues on the Board, Fanning again asserted his position in another influential dissent in *St. Claire's Hospital* ("*St. Claire's*").⁸⁷ The decision in *Cedars-Sinai* was construed by some observers as signaling a new direction for the Board. However, as the majority in *St. Claire's* points out, notwithstanding its ruling fifteen months earlier in *Cedars-Sinai*, which left doubt in the minds of many observers who questioned the implications of the Board's decision on national labor policy and the direction that the law was heading in this area, the Board's position is a clear and unwavering one.⁸⁸ The Board viewed *St. Claire's* as an opportunity to clarify its view on the treatment of housestaff employees. In doing so, the Board stated that its previous decision in *Cedars-Sinai* did not signal a new direction in this area, but was reflective of its longstanding labor policy.⁸⁹ This reaffirming statement by the Board underscores the significance of Fanning's dissent in *Cedars-Sinai*. In *St. Claire's*, the majority announced that the issues in the housestaff cases are applicable to students generally

82. *Id.* at 255 (explaining that pursuant to the Internal Revenue Code, fellowships and scholarships are excludable from gross income.)

83. 26 U.S.C. § 117 (2003).

84. *Cedars-Sinai Med. Ctr.*, 223 N.L.R.B. at 255 n.17 (Fanning, member, dissenting).

85. Since 1954, the Department of Treasury has treated the stipend paid to housestaff as compensation for services rendered.

86. *Cedars-Sinai Med. Ctr.*, 223 N.L.R.B. at 259 (Fanning, dissenting). "And so there is pathetic irony in what my colleagues do today. The onset of organization of housestaff officers is among us. . . . The one group so singularly involved in the congressional issues, both in terms of its immediate relationship with the delivery of medical services and in terms of its recognition interests, is, today, by fiat, read out of the Act." *Id.*

87. *St. Claire's Hosp. & Health Ctr.*, 229 N.L.R.B. 1000, 1005 (1977) (Fanning, member, dissenting).

88. *Id.* at 1002, 1003.

89. *Id.* at 1003.

and not just students planning to enter the healthcare field.⁹⁰ This pronouncement by the Board ended any speculation concerning the Board's position after *Cedars-Sinai*. It was clear that graduate students at private universities would be treated exactly like the housestaff in *Cedars-Sinai*.

In *St. Claire's*, the Board again relied on the "primary purpose test" in determining the status of housestaff, but in this decision, the Board clearly articulated its position.⁹¹ The Board concluded that employment was merely incidental to the students' primary purpose of acquiring an education, and in most instances was designed to supplement financial resources.⁹² Where "individuals are rendering services which are directly related to—and indeed constitute an integral part of—their educational program, they are serving primarily as students and not primarily as employees."⁹³ According to the Board, the services being rendered by the students for the Institution were largely academic and not economic in nature.⁹⁴ In its most forceful statement on the issue at the time, the Board proclaimed that national labor policy precluded the extension of collective-bargaining rights and obligations to graduate assistants because of their status as students.⁹⁵

f. The Board's Reasoning

A closer examination of the Board's opinion in *St. Claire's* reveals the basis for the positions held by opponents to the graduate student movement today. The arguments used to support the position that collective bargaining does not have a place in academia came directly from the majority opinion in *St. Claire's*.⁹⁶ The Board indicated that the employee-employer relationship is not analogous to the student-teacher relationship because the latter is more homogenous with a common end or goal—the advancement of the student's education.⁹⁷ According to the Board, the common conflicts that exist in the employee-employer relationship are non-existent in the student-teacher relationship.⁹⁸ Thus, the

90. *Id.* at 1000. "One common misconception surrounding *Cedars-Sinai* is that it is primarily a decision about the healthcare industry. This is just not the case." *Id.*

91. *Id.* at 1002.

92. *Id.*

93. *Id.*

94. *Id.*

95. *Id.*

96. It is worth noting that full-time faculty members were also struggling for recognition at this time as well. *St. Claire's Hosp. & Health Ctr*, 229 N.L.R.B. at 1000–02.

97. *Id.* at 1002.

98. *Id.*

process of collective bargaining, which is most advantageous in an economic setting, would not necessarily produce the best outcome in academia, where academic decisions are not well-suited for collective bargaining. The majority believed that academic concerns are irrelevant to wages, hours, terms and conditions of employment.⁹⁹ The Board, with one exception, felt that collective bargaining did not have a place in the education process because one cannot and should not “collectively” bargain over a student’s education, something that is such an intensely personal decision for each student.¹⁰⁰

In *St. Claire’s*, the Board also addressed the concern that collective bargaining in the “structure of higher education” would lead to an erosion of traditional academic freedoms.¹⁰¹ The Board indicated that if it recognized medical interns as employees, it would “follow that many academic freedoms would become bargainable as wages, hours, or terms and conditions of employment.”¹⁰² The Board did not wish to become involved “in matters of strictly [an] academic concern” and felt that by granting recognition, its involvement was “only a petition or an unfair labor practice charge away.”¹⁰³

The fact that program advancement may be subject to negotiation at the bargaining table was also troubling to the Board.¹⁰⁴ This, the members thought, could lead to long and protracted disputes that were not easily adjudicated.¹⁰⁵ As a policy matter, the Board believed that potential infringements upon academic freedom would limit the students’ and faculty’s ability to tailor instruction to meet the needs of the graduate students, which would diminish the quality of the educational process.¹⁰⁶ As a public policy matter, the Board did not believe that the public would be well served by this outcome.¹⁰⁷

In his dissent, Fanning again challenged the reasoning of his colleagues. Fanning believed that they were misguided in their conclusions

99. *Id.*

100. *Id.* Collective bargaining implies collective treatment of all students which, according to the Board, is the antithesis of personal individualized education. *Id.*

101. *Id.* at 1003.

102. *Id.* The Board indicates that if employee status is granted, then administrators would be forced to bargain with students over course length and content, establishing standards for graduation, administering examinations, teaching methods, and to resolve a multitude of other administrative and educational concerns. *Id.*

103. *Id.*

104. *Id.*

105. *See id.* at 1003.

106. *Id.*

107. *St. Claire’s Hosp. & Health Ctr.*, 229 N.L.R.B. at 1003. Parts IV and V of this note will look at whether or not these fears are well grounded.

and that their need to clarify this position demonstrated that it was best to start again from the beginning on this issue.¹⁰⁸

g. The *Boston Medical* Decision

In 1999, the Board eventually adopted the position taken by Fanning in previous cases. In *Boston Medical Center Corp.* (“*Boston Medical*”),¹⁰⁹ the Board held that residents and interns were statutory employees under the NLRA.¹¹⁰ In doing so, the Board explicitly overruled both *Cedars-Sinai* and *St. Claire’s* and held that the housestaff, despite their student status, were in fact employees under the NLRA and were thereby entitled to the rights guaranteed under § 7.¹¹¹ In adopting Fanning’s broad definition of “employees,” which was rooted in the common law, the Board held that unless there are other statutory policy reasons for excluding these graduate students, they fell within the meaning of the statute.¹¹² The housestaff in this particular case fit within the definition, despite the fact that their purpose for being in the hospital was, in part, educational.¹¹³ The Board emphasized the service component of the students’ employment responsibilities and focused less on the educational component of the employment responsibilities.¹¹⁴ The Board analogized housestaff to apprentices, which have traditionally been covered by the NLRA.¹¹⁵

In rejecting the policy argument that collective bargaining with housestaff would infringe upon academic freedoms, the Board stated that by excluding students from the collective bargaining process it was putting the “proverbial cart before the horse.”¹¹⁶ The Board concluded that the parties are free to bargain over the topics they select and that it is not for the Board to determine the “boundaries between permissive and mandatory subjects of bargaining.”¹¹⁷ More importantly, the Board indicated that the “contour[s] of collective bargaining [are] dynamic with new issues frequently arising out of new factual contexts: what can be bargained about, what the parties wish to bargain about or concentrate

108. *Id.* at 1005, 1009 (Fanning, member, dissenting).

109. 330 N.L.R.B. 152 (1999).

110. *Id.* at 152.

111. *Id.*

112. *Id.* at 160.

113. *Id.*

114. *Id.*

115. *Id.* at 161.

116. *Id.* at 164.

117. *Id.*

on, and what the parties are free to bargain about[] may change.”¹¹⁸ The Board could always address any new issues that arise at a later date, if in fact, they did arise.¹¹⁹ More importantly, employers and employees could attempt to persuade one another as to which issues to bargain over.¹²⁰ It is perfectly acceptable for an employer to “persuade a union that [it] cannot bargain over matters in the manner suggested by the union” due to outside contracts that the employer may have with third parties.¹²¹ According to the Board, the parties would be best suited to “identify and confront any issues of academic freedom as they would any other issue in collective bargaining.”¹²² The Board was convinced that “unionism and collective bargaining are dynamic institutions capable of adjusting to new and changing work contexts and demands in every sector of our evolving economy.”¹²³

Based on the Board’s ruling in *St. Claire’s*, which was applicable not only to housestaff but to other graduate assistants, it is easy to conclude that graduate students at universities across the nation would be buoyed by the decision of the Board in *Boston Medical*. However, the language in *St. Claire’s* and *Boston Medical* cast some doubt as to such an analogy¹²⁴ and compelled the Board to hear a case involving graduate assistants in a non healthcare-related context.¹²⁵

h. Yale University

In 1995, following many years of organizing efforts, the Graduate Employees and Students Organization (“GESO”) voted to conduct a “grad strike” at Yale University.¹²⁶ At the end of the fall 1995 semester the graduate assistants collectively refused to submit grades to the University for those classes that they were teaching on their own or assisting faculty in teaching.¹²⁷ The aim of the strike was to induce administrators

118. *Id.*

119. *Id.*

120. *Id.*

121. *Boston Med. Ctr. Corp.*, 330 N.L.R.B. at 164 (stating “there are often restrictions on bargaining due to outside influences, e.g., contracts an employer may have with other concerns that require the employer to conduct its business in a specific manner, or specifications in a contract that limit what an employer may or may not do”).

122. *Id.*

123. *Id.* at 165.

124. *St. Claire’s Hosp. & Health Ctr.*, 229 N.L.R.B. at 1003. Housestaff possess certain attributes of student status that are unlike many others in traditional academic settings. *Id.*

125. *New York Univ.*, 332 N.L.R.B. 1205, 1205 (2000).

126. *Yale Univ.*, 330 N.L.R.B. 246, 246 (1999).

127. *Id.*

at Yale to begin negotiating with the GESO. In response to the strike, faculty members and administrators threatened the striking students by indicating that their “future teaching, any requested letters of professional recommendation, and perhaps their careers beyond Yale would suffer if they did not submit final grades in a timely fashion.”¹²⁸

In response to the threats, the General Counsel for the NLRB brought unfair labor practice charges against Yale University.¹²⁹ Specifically, the General Counsel “alleged that [Yale University] violated Sections 8(a)(1) and 8(a)(3) of the NLRA.”¹³⁰

The unfair labor charges were dismissed by the Administrative Law Judge (“ALJ”) presiding over this case.¹³¹ The ALJ held that “the grade strike was unprotected activity because it was a partial strike and because the strikers had misappropriated university property.”¹³² The ALJ disagreed with the General Counsel on the § 8(a)(1) complaint as well. In dismissing this complaint the ALJ rejected the General Counsel’s argument that statements made to graduate assistants “constituted ‘overbroad’ threats because they could reasonably be understood as broadly directed against participation in protected concerted activity in general.”¹³³

In reviewing this case, the Board affirmed the ALJ’s earlier conclusion that the grade strike was “unprotected activity.”¹³⁴ The Board stated that the General Counsel had “satisfied his burden to establish a prima facie case that four of the statements” of the University constituted a § 8(a)(1) violation.¹³⁵ The Board did not address whether the Yale graduate assistants were employees under the NLRA; rather it remanded that question to the ALJ.¹³⁶

128. *Id.*

129. *Id.*

130. *Id.* Section 8(a)(1) prohibits employers from interfering in the protected concerted activities of employees and § 8(a)(3) prohibits an employer from discriminating against employees engaged in concerted activity. 29 U.S.C. § 157 (2000). The behavior that prompted the second charge included “disciplining [graduate students], removing them from teaching assignments, demoting them, subjecting them to closer supervision, and/or eliminating their classes.” *Yale Univ.*, 330 N.L.R.B. at 246.

131. *Id.*

132. *Yale Univ.*, 330 N.L.R.B. at 246.

133. *Id.*

134. *Id.* at 246, 248.

135. *Id.* at 250. However, the Board remanded the second complaint for further proceedings. *Id.*

136. 22 LOY. L.A. L. REV. 1849, 1873 (1999–2000). “[T]he Yale NLRB majority direct[ed] the ALJ on remand to “provide the Board with findings of fact and conclusions of law on the issue of employee status of the [graduate assistants] under Section 2(3) of the Act. . . .” *Id.*

On March 29, 2000, the ALJ approved a settlement between the NLRB and Yale University that resolved the unfair labor practice charges.¹³⁷ This meant that the Board would have to wait for another case in order to decide the question of whether graduate assistants are employees under the Act. Not surprisingly, the opportunity arose in short order as the Board addressed this issue again in a similar case, *New York University*.¹³⁸

III. THE *NEW YORK UNIVERSITY* DECISION

New York University (“*NYU*”) represented the Board’s final position to date on this issue. In *NYU*, the Board again opted to apply the “service test” approach in declaring that graduate assistants who are currently enrolled as graduate students, working towards a graduate or post-graduate degree, while simultaneously serving as teaching or research assistants, are employees.¹³⁹ The Board stated that graduate assistants are covered by the NLRA and, thus, there is no basis for denying them collective bargaining rights.¹⁴⁰ Applying the principles used in *Boston Medical*, the Board concluded that there was ample evidence “that graduate assistants plainly and literally [fell] within the meaning of ‘employee’” as defined in the NLRA.¹⁴¹ According to the Board, the “facts [in this case] establish that graduate assistants perform services under the control and direction of the [University], for which they are compensated.”¹⁴² The student-employees and the duties they perform in the departments or programs are under the control and direction of the employer.¹⁴³ This type of relationship was “indistinguishable from a

137. *Id.* The graduate union at Yale represented both teaching assistants and research assistants. For the purposes of this note, both groups will be referred to as graduate assistants. The settlement of the case between Yale University and its graduate assistants required that the unfair labor practice charges would be withdrawn if Yale agreed to “post notices describing the rights of employees under the NLRA and promis[ed] not to violate these rights.” *Id.* None of these actions represented an admission by Yale University that it had committed an unfair labor practice. *Id.*

138. *New York Univ.*, 332 N.L.R.B. 1205, 1205 (2000). The Board’s review of this case followed the decision of NLRB Regional Director (Region 2) Daniel Silverman to direct an election for a bargaining unit comprised of teaching assistant. *Id.* In reaching this decision Silverman traced the common law definition of agency and the decisions of the Board and federal courts in this area and concluded that the graduate assistants meet the “statutory definition of employee.” *Id.* at 1216.

139. *See id.* at 1205–06.

140. *Id.*

141. *Id.* at 1206.

142. *Id.*

143. *Id.*

traditional master-servant relationship.”¹⁴⁴ The Board rejected the University’s argument that the relationship between the employee and the employer here was different from that in *Boston Medical*.¹⁴⁵ The Board still found that both groups of students¹⁴⁶ performed work for their university under the institution’s control.¹⁴⁷

The Board then looked at the compensation received by the graduate assistants and determined that the stipend was not equivalent to, nor did it function as, financial aid.¹⁴⁸ Graduate assistants, unlike students receiving financial aid, performed work for the employer and did not receive academic credit for doing so.¹⁴⁹ In many cases, the Board found that students who worked as research and teaching assistants had already completed the course requirements for their degree and were working on their dissertations.¹⁵⁰

Just as others have used public policy arguments to bolster their positions, so did New York University. The two major policy arguments used to support its position were that: 1) graduate assistants do not have a traditional economic relationship with the employer and 2) the extension of collective bargaining rights to graduate assistants would infringe upon academic freedom.¹⁵¹ In rejecting the first policy argument, the Board stated that the working relationship with the employer closely paralleled the traditional economic relationship between the faculty and the institution.¹⁵² Graduate assistants allow institutions to compete with other schools for undergraduate students by providing alternative or inexpensive services.¹⁵³ Graduate and teaching assistants exist to perform both academic and administrative tasks that a university elects to not have its full-time faculty members perform.¹⁵⁴ In tuition-driven institutions, graduate assistants are crucial to the delivery of a credible and profitable undergraduate curriculum.¹⁵⁵

144. *Id.*

145. *Id.* In neither case did the Board look at the duration of the time spent working for the employer. In fact, the Board did not even require that level of analysis. *Id.* at 1206 n.7.

146. Medical student interns and residents in *Boston Medical Ctr. Corp.* and graduate teaching assistants in *New York Univ.*

147. *New York Univ.*, 332 N.L.R.B. at 1206.

148. *Id.* at 1206–07.

149. *Id.* at 1207.

150. *Id.*

151. *Id.* at 1207, 1208.

152. *Id.* at 1208.

153. Toby Miller, *Approach to the Cultural Study of Law: What it is and What it isn’t*, *Cultural Studies Meets Graduate-Student Labor*, 13 *YALE J.L. & HUMAN.* 69, 87, 89 (2001).

154. *Id.* at 69.

155. *Id.*

The second policy argument set forth by New York University in this case was that the extension of collective bargaining rights to graduate assistants would infringe upon academic freedom.¹⁵⁶ Here the Board pointed to the experiences of full-time faculty members and concluded that extending such rights would not impact academic freedom because “[a]fter nearly 30 years of experience with bargaining units of faculty members, . . . the parties can ‘confront any issues of academic freedom as they would any other issue in collective bargaining.’”¹⁵⁷ This argument was also rejected by NLRB Regional Director Daniel Silverman (“Silverman”) in the order calling for an election.¹⁵⁸ The University argued that “‘the freedom that NYU presently has to introduce . . . a program based on educational policy will be lost’”¹⁵⁹ and “‘[i]n the future, any such program would have to be bargained with the Union.’”¹⁶⁰ The University also asserted that mentoring programs between faculty and graduate students would be harmed¹⁶¹ and that the “‘four essential academic freedoms of ‘who may teach, what may be taught, how it shall be taught and who may be admitted to study’” would be compromised.¹⁶²

While Silverman conceded that “[while] the mission of a university is clearly different than that of an economically motivated business, this distinction is not a valid basis to exclude teachers from the definition of employee.”¹⁶³ Silverman stated that “the conclusion that graduate assistants are employees entitled to engage in collective bargaining does not imply that the four essential elements of academic freedom are necessarily mandatory subjects of collective bargaining.”¹⁶⁴ According to Silverman, universities are not apprehensive about negotiating with graduate assistants, a practice that is commonly engaged in, but they do not embrace the idea of negotiating with graduate students collectively.¹⁶⁵ It is this latter situation that universities fear will compromise academic freedom. “The limitation on academic freedom [that universi-

156. *New York Univ.*, 332 N.L.R.B. at 1208.

157. *Id.* at 1208.

158. *Id.* at 1219–20.

159. *Id.* at 1219.

160. *Id.*

161. *Id.* at 1219–20 “Collective bargaining . . . will have a chilling effect on such relationships.” *Id.*

162. *Id.* (quoting *Sweezy v. New Hampshire*, 354 U.S. 234 (1957)).

163. *Id.* at 1220.

164. *Id.* It is well established that “collective-bargaining negotiations can be limited to only those matters affecting wages, hours, and other terms and conditions of employment[,]” which would preclude the essential elements of academic freedom from being compromised at the bargaining table. *Id.*

165. *Id.*

ties] anticipate . . . is not the obligation to offer employment conditions on terms the graduate assistants are willing to accept (i.e. negotiate with the graduate students as individuals), but the obligation to do so collectively.”¹⁶⁶ At its core, the University’s argument is essentially that the “anticipated interference with academic freedom essentially appears to be a fear that collective action over graduate students’ conditions of employment will be more influential and powerful than individual action.”¹⁶⁷ Thus, if the Board were to allow this argument to prevail, “it would run directly contrary to the express purposes of the Act.”¹⁶⁸ The objective of the NRLA is to not compel agreements between employees and employers. “The theory of the Act is that free opportunity for negotiation with accredited representatives of employees is likely to promote industrial peace and may bring about the adjustments and agreements which the Act in itself does not attempt to compel.”¹⁶⁹

In the months and years following the NLRB’s ruling in *NYU*, graduate student teaching assistants at other private universities filed petitions for representation elections with the NLRB.¹⁷⁰ For these reasons, the Board’s decision in *NYU* spurred fiery responses from administrators of private universities nationwide, condemning the decision and encouraging the administrators at New York University to appeal the ruling.¹⁷¹

A. Reaction to the NYU Decision

Administrative officials at private universities continue to fight the unionization efforts of their graduate teaching assistants in the face of the Board’s ruling in *NYU*. Perhaps the most outspoken of these private university administrators is President Richard C. Levin (“Levin”) of Yale University. Levin has proposed to make Yale “a place for model labor relations” but limits his proposition to the University’s already established unions.¹⁷² Contrary to Levin’s general stance on unionization, he is vocal in his opposition to unionization efforts of the graduate student teaching assistants.¹⁷³ Levin verbalized that the foundation of his

166. *Id.*

167. *Id.*

168. *Id.*

169. *Id.* at 1208 quoting *NLRB v. Jones & Laughlin Steel Corp.*, 301 N.L.R.B. 1, 45 (1937).

170. LaBrie, *supra* note 15, at 1.

171. *Id.* See also, Fellman, *supra* note 10, at

http://www.yalealumnimagazine.com/issues/01_10/gesso.html (Oct. 2001) (last visited Apr. 12, 2004); Miller, *supra* note 153, at 90.

172. Fellman, *supra* note 10.

173. *Id.*

position against unionization of graduate students is that the uniform one-size-fits-all approach, while appropriate in industrial settings, does not translate well to graduate education.¹⁷⁴ He asserts that the uniformity that unions tend to impose on the employees they represent directly conflicts with the flexibility required to complete a graduate education.¹⁷⁵

Anti-union observers, like Levin, fear the compromise of the academic relationships, as the outcome of unionization, has the most potential to cause harm.¹⁷⁶ The allegation is that the collective bargaining process is by nature adversarial and that it would undoubtedly cause a rift between professor and student.¹⁷⁷ This allegation however, may be only that, an allegation without any actual credibility.

A University of Wisconsin doctoral thesis published in 1999 by Gordon Hewitt examined that very relationship and the effects that unionization had on the mentoring, advising, and instructional activities.¹⁷⁸ He found, by surveying 300 professors, that “[o]ver ninety percent of the professors reported no negative educational impact on those three key components of the relationship.”¹⁷⁹ Contrary to Levin’s plea to the administration of New York University to appeal the Board’s ruling to the federal courts, the school instead opted to negotiate a contract with the Graduate Students Organizing Committee.¹⁸⁰

Despite the negative reaction of members of the academic community towards unionization of the graduate students at private universities, the students continue to petition the Board for representation.¹⁸¹ Graduate students contend that contrary to the arguments posed by administrators to fight unionization efforts—that graduate education requires flexibility and that union uniformity would not fit in the academic atmosphere—unionization will not have the disastrous impact on education that they contend it will.¹⁸² In fact, the graduate student teaching assistants currently attempting to organize on private campuses are doing so in response to universities that increasingly apply a corporate strategy to university management.¹⁸³

174. *Id.*

175. *Id.*

176. Fellman, *supra* note 10. See also, Catherine R. Stimpson, *A Dean’s Skepticism About a Graduate-Student Union*, CHRON. HIGHER EDUC., May 5, 2000, at B7.

177. *Id.* See also, Miller, *supra* note 153, at 91–92.

178. Fellman, *supra* note 10.

179. *Id.*

180. *Id.*

181. Fellman, *supra* note 10.

182. Fellman, *supra* note 10.

183. *Id.* See also, Miller, *supra* note 153, at 91–92 (discussing the “corporatization of Univer-

J.T. Way, Chairperson of the GESO, which is currently seeking representative status at Yale, responded to Levin, indicating that by following the corporate model, “[u]niversities . . . [have] learned that they can function by using armies of low-paid, unprotected workers.”¹⁸⁴ At Yale, between the years 1980 and 1997 the number of full-time faculty decreased, while the number of graduate teaching assistants increased from 778 in 1980 to 1,039 in 1997.¹⁸⁵ Teaching assistants at New York University teach twenty percent of all classes.¹⁸⁶ Teaching assistants at both New York University and Yale provide these services at considerably lower salaries than those that either university would be required to pay a professor in the absence of available graduate students.¹⁸⁷

B. Effects of the NYU decision

Following the *NYU* decision, graduate assistants at a number of universities organized and demanded union recognition.¹⁸⁸ A number of these organizing drives were successfully culminated with an NLRB supervised election.¹⁸⁹ At other universities, organizing efforts ended at the election box or never reached the election stage.¹⁹⁰

It is difficult to predict what is going to happen with this latter group. However, for universities in the first group, the situation remains a fluid one and any future action taken by the Board in the cases pending before it will be watched closely.¹⁹¹ For those universities where organizing drives culminated with an election, the stakes still remain high.

sity Life”.

184. *Id.*

185. Rohrbacher, *supra* note 22, at 1849–50.

186. *Id.* at 1849.

187. Bruce Fellman, *States of a Union*, YALE ALUMNI MAG., http://www.yalealumni magazine.com/issues/01_10/gesso.html (Oct. 2001) (last visited April 12, 2004) (stating that stipends in 2001–2002 for graduate assistances were approximately \$13,700 at Yale University.) See Scott Smallwood, *Stipends are Key in Competition to Land Top Graduate Students*, September 28, 2001, at B6. See also, Anthony Kronman, *Are Graduate Students Workers?*, N.Y. TIMES, May 19, 2001 available at <http://www.gseu.org/aregraduatestudentsworkers.htm>. (last visited April 12, 2004) (indicating that graduate assistants “teach undergraduates whom the faculty have neither the time nor inclination to teach . . .”)

188. Fellman, *supra* note 10. See also, LaBrie, *supra* note 15, at 1.

189. *Id.* See also, Spencer Willig, *Appeal of grad union ruling on tap for NLRB*, May 16, 2003 DAILY PENNSYLVANIA, available at www.cgeu.org (last visited April 12, 2004).

190. Graduate Students at Cornell University elected not to establish a union at that university.

191. LaBrie, *supra* note 15, at 1 (indicating that appeals have been taken at Brown University, Columbia University, University of Pennsylvania and Tufts University).

IV. INTRODUCTION OF SURVEY

Most student notes are not scientific; rather, they are usually normative in nature. This note will rely on empirical observation to reach its conclusions. In our survey, the focus is on “what is” rather than on “what ought to be.”¹⁹² We were not necessarily seeking to determine how many graduate assistants had unionized at various universities or what pay increases they had realized, but rather to identify the underlying issues and judge their validity in light of the data collected. We were not just looking to describe what happened; rather we wanted to be able to use the data collected to measure and draw conclusions that would help to better understand and explain the impact of the *NYU* decision.

A. Format of Survey

The survey (see Appendix A) contained a total of sixteen questions. There were generally three types of questions that can best be described as factual questions, behavioral questions, and opinion related questions.¹⁹³ The opinion portion attempted to measure the attitudes of the graduate students. For example, had the bargaining efforts resulted in meaningful advances for the graduate assistants in the areas of compensation, benefits, etc.?

The forms of the questions differed. In certain questions, space was provided for a written response to the question, while in others, we provided a range of options to select from. The format of the questions chosen here posed certain benefits and challenges for us. First, with the open-ended questions, we were requiring answers in the respondents' own words. We recognized that such responses and data may not be quantifiable and may not prove helpful in reaching a definitive conclusion.¹⁹⁴ The benefits, however, to those questions are that answers may uncover other avenues that lead to additional research or that are worthy of further examination. There are also costs and benefits associated with

192. See generally MARCUS E. ETHRIDGE, *THE POLITICAL RESEARCH EXPERIENCE, READING & ANALYSIS* 5 (2d ed. 1994) (explaining the aim of empirical studies).

193. Question one sought to decipher which category the respondent belonged to and reads: Please choose the category that best describes you: a) Teaching Assistant (TA); b) Research Assistant (RA); c) Administrator; d) None of the above. Question two asked whether the university had recognized the bargaining unit and reads: Has the University recognized your bargaining unit? a) Yes; b) No.

194. ELIZABETH O'SULLIVAN & GARY R. RASSEL, *RESEARCH METHODS FOR PUBLIC ADMINISTRATORS* 188 (2d ed. 1995) (discussing advantages and disadvantages of various question formats).

the latter questions. Close-ended questions, usually followed by a number of options (1 – strongly agree; 2 – agree; 3 – disagree; and 4 – strongly disagree), limit the choices of the survey participants. On the other hand, close-ended questions provide data that is more easily quantified¹⁹⁵ and thus useful to the authors.¹⁹⁶

We decided to put the survey online and use the information posted on the website of the universities and their list-serv, where available, to send a cover letter and link to our survey via e-mail. Because we decided to use the internet, our survey could be done in a matter of minutes while enabling us to obtain the information sought. We were able pose questions that allowed for more than one answer. The answer choices, however, were provided by us. We tried to keep the selections neutral, but certain questions required assumptions on our part. For example, Question Four¹⁹⁷ asked the students to select the top three issues that were most important to them when it comes to negotiating a contract with the university. This involved two assumptions on our part: 1) that there were ongoing or recent negotiations and 2) that the issues we listed as choices were the issues that were issues important to graduate assistants. To account for any issues which may not have been listed, as we recognized that our list was not exhaustive, we included an “Other” category.

The survey then asked the students, in Question Six,¹⁹⁸ to fully explain, in a text box, which of the issues that they checked in Question Four¹⁹⁹ were the most important to them and why. We had two text

195. *Id.* at 188.

196. Our initial approach however changed upon meeting with Professor Gregory E. DeFreitas, an expert in survey drafting and analysis. Professor DeFreitas is both a Professor of Economics and the Director of the Center for the Study of Labor and Democracy at Hofstra University. We quickly learned that we had very high, but very unrealistic, hopes for our survey. We did not have sufficient time or resources necessary to do the kind of survey we had originally planned. Professor DeFreitas explained that people are answering surveys less and less due to the age that we live in. Even surveys mailed out with actual cash in them do not have a great return rate. Traditional first-class mail would not work and trips to the various Universities with personal distribution of the survey were out of the question. The original survey, with its short answer format, would elicit great information but was not likely to turn out the volume of results needed to be able to come to any sort of unbiased conclusions. In addition, we decided to limit our survey population to graduate students at this time. Although we have not ruled out surveying University Administrators at some point in the future, it will not be included or discussed in this note.

197. Question Four reads: Please select the top three (3) issues that are most important to you when it comes to negotiating a contract with the University? a) Wages and Salary; b) Health Insurance; c) Pension and other Fringe Benefits; d) Job security; e) Class size; f) Course offerings; g) Course content; h) Other.

198. Question Six reads: Out of the three you selected, which goal is most important to you and why?

199. *See supra* note 197.

boxes reserved for the issues that we felt would be most important. As a result, we were able to achieve a balance between the ease of answering the questions to the survey and the need to elicit detailed responses from the students.

*B. Distribution of Surveys*²⁰⁰

We did not have a budget with which to work and, as law students, had neither the amount of time needed nor the resources to do the type of survey that we had originally planned. We believe that we would not have gotten back the number of quality responses we did had we not done an online survey. We decided to solicit students at the following types of schools: 1) a private, unionized university; 2) a public, unionized university; 3) a private university in the process of unionizing; and 4) a private university that recently voted down a union.²⁰¹

C. The Final Survey

We distributed, via e-mail, the survey link to seven (7) universities. The universities selected were University of Illinois at Urbana-Champaign,²⁰² Temple University,²⁰³ Brown University,²⁰⁴ New York University,²⁰⁵ Yale University,²⁰⁶ Cornell University,²⁰⁷ and the Univer-

200. See Tim Cramm, *Prognosis Negative?: An Analysis of Housestaff Unionization Attitudes in the Wake of Boston Medical Center*, 87 IOWA L. REV. 1601, 1627 & n.145, 1628 (2002) (describing the method for distributing surveys to housestaff). As we indicated, we planned on two separate methods to distribute our surveys to graduate assistant leaders and administrators. Prior to meeting with Professor DeFrias, the plan was to make e-mail and direct mail requests first and then follow up. We were also going to send internet surveys to the various organizations using the e-mail addresses provided on union websites. The plan included direct mail requests being sent to the student union leaders and university presidents at the various universities selected. After all of the surveys had been distributed and ample time had been given to return the completed surveys, we would have to follow-up with telephone calls to those individuals who did not return a completed survey.

201. Contact information was unavailable for graduate students at a public university that had recently voted down union representation.

202. A public, unionized university.

203. A public, unionized university.

204. A private university at which an election has been held but the results are not yet disclosed.

205. A private, unionized university.

206. A private university, fighting for the right to collectively bargain.

207. A private university that recently voted down union representation almost 2:1.

sity of Pennsylvania.²⁰⁸ As one can imagine, conducting a survey on this issue at universities can stir a fair amount of controversy.²⁰⁹

Initially, we thought that there would be plenty of professors and student leaders who would be willing to assist us in our research, but we soon found out that the division between supporters of and those in opposition of the unionization efforts ran deep. More importantly, it was difficult to determine into which camp an individual fell. One would think that professors and administrators would be more sympathetic to the unionization efforts—after all many university professors are members of a collective bargaining unit. It became evident that those we had anticipated to be proud supporters of the pro-union movement had redefined themselves after many years as tenured faculty members. As a result, we had to find alternative means for distributing our survey.

Nearly all major universities have an extensive website that provides information on programs of study, campus life, special events, and the like. Many of these sites also contain links to each of the various schools, both undergraduate and graduate. The link to each graduate school contains a link to the individual departments within that school and, in some cases, the names of each of the graduate students in the various programs of study. Access to this type of information provided one way for us to solicit students to participate in our survey. Although we were not able to track exactly from whom and where our responses came, we suspect that those students surveyed using this approach produced the highest rate of return.²¹⁰

In some cases, university websites did not contain the names of individual students; rather they only contained the names of professors within each department. This presented two problems. First, if the professor we solicited was opposed to the unionization efforts²¹¹ he or she may not comply with our request to distribute the survey to his or her students. Second, the professor may not send the survey to all of his or her students, but only to some. If the professor sent it only to those students who held a strong position on this subject, it would enhance a sur-

208. A private university in the process of their unionizing efforts.

209. This initially led to problems when an attempt to distribute the survey link to the graduate student population at these universities was made.

210. In those cases where the students and/or professors were listed on the university website (Brown University, New York University, Yale University, University of Pennsylvania and University of Illinois), surveys were sent to members of the following departments: English, mathematics, political science, biology, music, economics, philosophy, classics, education and business. This is not an exhaustive list, rather it reflects the most common departments surveyed.

211. Understandably, there was no way of knowing which professors supported graduate student unions and which did not.

vey bias that we would be unable to account for. Although we acknowledge the potential shortcoming of this approach, we believed that in order to reach the prospective pool of graduate students, we needed to trust that those professors solicited would comply with our instructions.

A third method utilized to distribute our survey electronically was to become a member of the student listserv at a particular university or graduate school.²¹² Subscribing to a student listserv is a very effective strategy for reaching students directly. We believed that students who check their e-mail accounts would click on our survey link and respond immediately after reading the e-mail, or not respond at all. We provided students with a three-week window in which they could respond. However, practically speaking, if the students did not respond immediately, we felt they were less likely to respond at all. One of the dangers with signing onto a student listserv and then sending a "mass e-mail" to a large number of recipients is that there is a tendency on the part of the student to delete the e-mail before opening it.²¹³

A fourth method utilized to distribute our survey was to locate and contact members of the graduate student assembly or council at the seven universities. At each of these universities, graduate students from the various departments at the university had a representative on the council. In some cases, positions were vacant, however, for the most part, the graduate council contained a contact name and e-mail address for the student. In addition, a list of the student leaders (e.g., graduate school council president, vice president, etc.) was listed on the website of the graduate council. When this information was available, we contacted that individual, via e-mail, with a brief letter and link to the survey. We also requested that her or she distribute the survey letter and link to the graduate students at his or her university. Due to a lack of resources, we were not able to follow-up with each of the individuals that we sent our survey request to, nor were we able to find out whether our request to forward the survey was complied with. Despite these obstacles, the student responses in the text boxes reflect that at least one student responded to the survey from each of the seven universities selected.

212. To be discussed *infra*, this proved to be a very effective method at Brown University. One student indicated in response to Question Eight of the survey that "the administration has access to all graduate listservs while the union does not." See also <http://www.nyu.edu/wagner.nyu> (last visited Apr. 12, 2004).

213. Unfortunately, due to fear of computer viruses sent via email, many people delete messages from unknown senders.

D. Survey Population

The survey e-mail and hyperlink was sent directly to 723 graduate students and professors at the seven universities we selected. As indicated earlier, we were successful in signing onto listservs at some of the universities and their corresponding graduate schools. In the case of Brown University, we signed on as members of the Graduate Student Council listserv, which allowed us to access as many as 1,500²¹⁴ graduate students who attended Brown and as had also subscribed to that listserv.

At New York University, we subscribed to the Robert F. Wagner Graduate School of Public Service General Student listserv, which serves the 850²¹⁵ graduate students attending that school. For the Stern School of Business and the Graduate School of Arts and Sciences, we contacted members of the various departments and sent an e-mail to the Graduate Student Council listserv.²¹⁶

At Temple University and the University of Illinois at Urbana-Champaign, information for professors and graduate students was limited. At Temple, there are 6,000²¹⁷ graduate students attending the University. We attempted to distribute our survey to this population group by contacting various departments within the University,²¹⁸ by subscribing to the graduate student union listserv, and by soliciting assistance from the recognized graduate student union itself—Temple University Graduate Student Association.

We employed a similar strategy at the University of Illinois at Urbana-Champaign. The Graduate Employees Organization is the recognized student union at that University and we asked for its assistance in distributing our survey to the over 9,000²¹⁹ graduate students attending that University.

At the University of Pennsylvania²²⁰ and Yale University²²¹ the graduate student populations total 2,300 and 8,200 respectively. We so-

214. See <http://www.brown.edu/webmaster/graduate.html> (last visited Apr. 12, 2004).

215. See <http://www.nyu.edu/wagner.nyu> (last visited Apr. 12, 2004).

216. It is unclear if the e-mail was actually delivered to the 4,100 students at the Graduate School of Arts and Sciences or the 2,100 at the Stern School of Business. A return e-mail from the administrator of the listserv indicated that postings would be read before a decision to allow the posting was made.

217. See <http://www.temple.edu/schools/graduate.html> (last visited Apr. 12, 2004).

218. See *id.*

219. See <http://www.grad.uiuc.edu> (last visited Apr. 12, 2004).

220. See <http://www.upenn.edu/programs/graduate.php> (last visited Apr. 12, 2004).

221. See <http://www.yale.edu/academics/graduate.html> (last visited Apr. 12, 2004).

licit assistance from the graduate faculty, members of the Graduate Assistant and Professional Student Association, and the Graduate Student Academic Council. At Yale, we sent our survey to department representatives of the Graduate Student Assembly and its corresponding student committees. For Cornell, we subscribed to six graduate student listservs available at the University's website and to the Graduate Professional Student Association.²²²

In an effort to prevent random responses from individuals who were not a teaching assistant, research assistant, or administrator, we formulated a question, which required respondents to identify themselves as a member of a particular group. Respondents also had the choice of identifying themselves as "None of the Above." In many cases, we were able to determine from the responses which category best described the individual respondent. In those cases where we could not determine the category, we disqualified the entire response. In all, two responses were disqualified.

The implementation of the survey on the website of the *Hofstra Labor and Employment Law Journal* did not allow us to track the individual responses and eliminate more than one response by the same person or to block an individual who was not a member of one of the three groups from responding. Moreover, this survey could have potentially been forwarded by any person receiving our e-mail and hyperlink to an individual or group of individuals, regardless of whether they were a graduate student or not. We recognize this to be a flaw in the survey that could potentially impact the data. Nevertheless, we accept the responses as accurate reflections of the views respondents had to the questions posed. We also assumed that no one individual intentionally attempted to distort our data by submitting multiple responses.²²³

E. Potential Problems with Survey

As with any survey, the potential for bias exists.²²⁴ Biases affecting surveys fall into three basic categories: Respondent Biases, Structural Biases, and Interview Biases. Respondent Biases are concerned with biases arising out of characteristics of the respondents.²²⁵ Structural Biases

222. See <http://www.gradschool.cornell.edu/> (last visited Apr. 12, 2004).

223. This was not a concern because of the type of wide distribution that we utilized and a close review of the written responses.

224. Cramm, *supra* note 200, at 1629.

225. O'SULLIVAN, *supra* note 194, at 196. See also, Cramm, *supra* note 200, at 1629.

arise out of the structure, distribution, and collection of surveys.²²⁶ Interviewer Biases could have impacted this study only if telephone and/or face-to-face interviews were conducted with the individual respondents.²²⁷

Respondent Bias may additionally be divided into three sub-groups: selection bias, response bias, and non-response bias.²²⁸ Unlike other studies, selection bias does not present the largest potential source of bias in this survey.²²⁹ Internet and direct mailing of surveys create certain problems because in both cases potential respondents are allowed to decide for themselves whether or not they want to participate in the survey.²³⁰ However, unlike other surveys where the potential respondents are comprised of both interested and disinterested members of a particular group, here, the graduate assistants and administrators have been selected based on their union activity, whether positive or negative.

The respondents in our study are comprised of graduate assistants at universities where unions are either recognized, are seeking recognition, or were recently voted down by the graduate student body.²³¹ Based on the survey population, the likelihood that a respondent will give an answer that he or she believes is socially desirable, even if it does not reflect his or her true belief on the subject, is minimal due to the privacy and anonymity of completing the survey electronically.

The largest potential bias here is found in the non-response category. In putting together a study such as this one, the potential existed that a lack of responses would have made it impossible to draw meaningful conclusions. The design of the survey helped to eliminate biases that could impact the representativeness of the study.²³² The questions contained in the survey were also arranged topically.²³³ In addition, the layout and format of the survey are also important. Ideally, ample space between each item makes the survey more appealing.²³⁴ An electronic posting of our survey enabled us to circumvent this concern.

226. *Id.*

227. *Id.*

228. Cramm, *supra* note 200, at 1629.

229. *Id.*

230. *Id.*

231. Response bias is likely not going to be the largest potential problem with this survey.

232. For example, the length of the questionnaire was minimized because as a general rule, shorter surveys have a higher response rate than longer ones. To take that general rule to its next logical conclusion, shorter questions rather than longer ones are viewed more favorably by respondents. O'SULLIVAN, *supra* note 194, at 196 (short and concise is better).

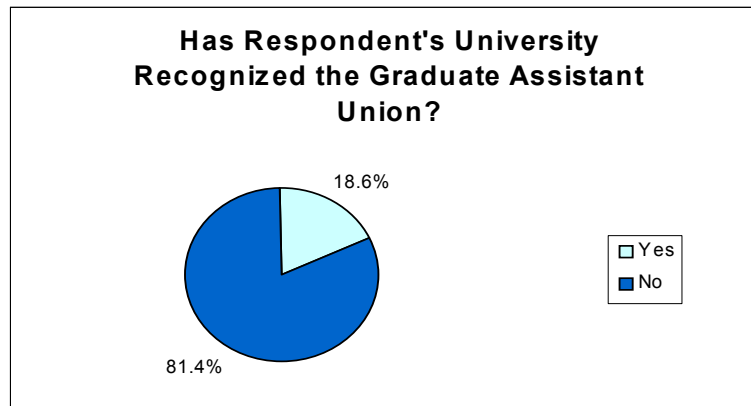
233. Cramm, *supra* note 200, at 1627.

234. O'SULLIVAN, *supra* note 194, at 197.

In summary, drawing responses from a representative population is important in mitigating the impact of survey biases. One method to accomplish this goal is to carefully design the criteria for the selection of participants.²³⁵ Initially, we considered geographic location (East, West, South, and Mid-west), size of the university, union history, and the presence of a collective bargaining agreement. Moreover, certain safeguards that cut down on biases and increase responses were also incorporated into the distribution of the surveys.²³⁶

V. SURVEY RESULTS

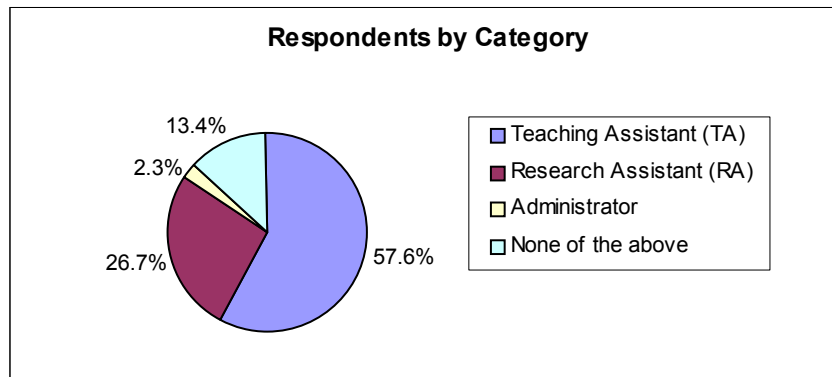
Each of the seven universities was selected as part of this survey based on the status of the unionization efforts on its particular campus. Of the seven universities surveyed, Brown, Yale, and Cornell did not have recognized unions. On the other hand, the University of Illinois at Urbana-Champaign, Temple University, University of Pennsylvania, and New York University had graduate student unions recognized on their campus. Of the 174 responses that were received and analyzed, 81.4% of the respondents indicated that they attended a university that had not recognized a graduate student union, while 18.6% indicated that a graduate student union was recognized on their campus. This would tend to suggest that at universities where the issue of graduate student unionization has not been fully decided, where everything is still at stake for both sides, graduate students are more likely to voice an opinion.



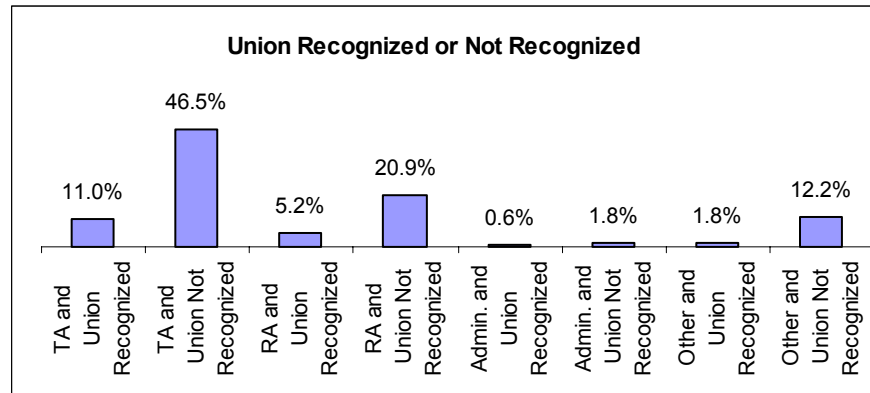
235. *Id.* at 198.

236. Some of these include drafting a cover letter, providing a pre-paid postage return envelope.

When asked to identify which group would best describe the respondent, 57.6% indicated that they would be best described as a "Teaching Assistant," 26.7% said "Research Assistant" and 2.3% said "Administrator." The final 13.4% identified themselves as "Other." After reading some of the text box responses, it appears that this last category of respondents could be identified as a category for general graduate students as opposed to those that are directly impacted by the possibility of unionization and union contracts. However, we cannot fully determine if the respondent was a research assistant ("RA") or a teaching assistant ("TA") and merely did not select that as his or her choice. For purposes of this survey it should not have a significant impact upon the final results.



Based on the responses received, we determined that 11.0% of the respondents were TAs attending one of the four universities with a recognized graduate student union, while 46.5% of the respondents were TAs attending one of the three universities where the graduate student union was still seeking recognition. We also determined that 5.2% of the respondents were RAs attending one of the universities that did recognize a graduate student union and 20.9% of the respondents were RAs attending a university where a union has not been recognized.



A. Most Important Issues to Graduate Assistants

From the 174 responses, we were able to get a broad range of opinions and ideas about graduate student concerns in general, at both universities with unionization and universities without unionization. As we expected, wages and salary, along with health insurance, were the top concerns of most of the graduate students surveyed.

The survey contained eight categories of issues. The graduate students were asked to choose up to three of their most important concerns when negotiating a contract with their university. The issue that garnered the most support from students was “Health Insurance,” which appeared in 80.8% of the responses as one of the top three issues when negotiating a contract. “Wages and Salary” was indicated as one of the top three issues in 78.5% of the responses. There were a few responses that later indicated that “Wages and Salary” was the number one issue in negotiations, because from increased wages and salaries comes the ability to purchase health insurance coverage that is not provided by the institution. It seemed as though, while the actual survey results do not explicitly indicate this, the number one issue is “Health Insurance,” with “Wages and Salary” a close second. When asked to indicate their most important issue, 29.1% of the respondents indicated that it was “Wages and Salary” whereas only 17.4% indicated that it was “Health Insurance.” However, as discussed earlier, there were some students that indicated that increasing their income would increase their ability to obtain health insurance coverage if it was not provided as part of a contract package.

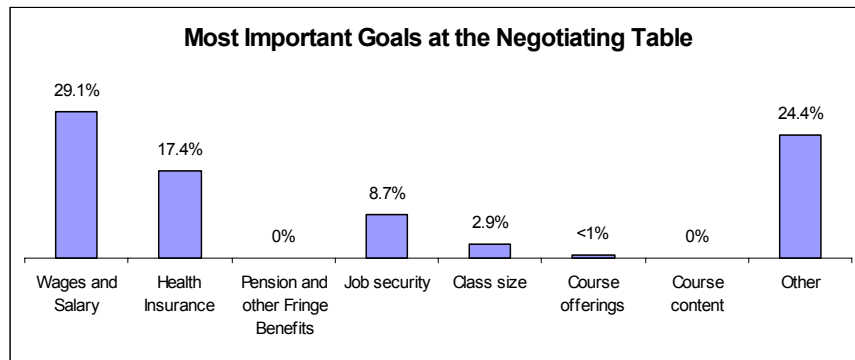
The category of “Other” received 42.4% of the responses as one of the top three issues concerning graduate students in negotiations. Several

of the responses in the “Other” category included building a more democratic university community, while several others indicated that for them, the category meant addressing the fear of “corporatization” of the university and overhauling the approach to undergraduate education. One response indicated that maternity leave (more than just health insurance to cover the pregnancy and birth expenses) and day care for the children of students was of chief concern for women who may not be able to attend school or teach without such benefits. Many of the “Other” responses indicate the need to have some say in how the university is run, or how his or her specific department is run in particular, in order to equalize the teaching system across disciplines so that graduate student teachers have equal expectations and responsibilities. “Other” was indicated as the most important to 24.4% of the students that responded.

“Job security” and “Class size” were not far behind with 29.7% and 22.1%, respectively. The percentage of students that put “Job security” or “Class size” as their number one issue is much smaller however, with only 8.7% choosing “Job security” and 2.9% choosing “Class size” as their most important issue. This may be explained in two ways. First, job security may not be of utmost concern because the students that responded to our survey, presumably, consider their job as a teaching or research assistant as a means to an end: graduation and completion of their graduate degree. In addition, looking at the number of people that indicated “Other” as their number one concern, and the vastly smaller number that selected “Class size” as the most important concern, it is a fair assumption that some included issues like class size in their decision to select “Other.” As indicated above, many students who selected “Other” did so because they wanted more say in how the university was run, or, more specifically, wanted more input in how their department was run.

One student explained that what he or she wanted was for “grad students and grad workers [sic] have a say in how their departments are run, i.e., how T.A.s are allocated, the size of the sections, [sic] how decisions get made generally.” Another student that selected “Other” as the number one category additionally explained that it ranges “from departmental issues like T.A. allocation or hiring of post-docs to larger issues like the increased reliance on grad student and adjunct labor, which reduces job security and academic freedom.” While it is clear that for some “Class size” specifically is the most important issue, it is similarly clear that some took class size into consideration when ranking “Other” as their most important issue.

“Pension and other Fringe Benefits,” “Course offerings,” and “Course content” did not draw a lot of support. While 13.4% of students chose “Pension and other Fringe Benefits” as one of their three selections, not one student ranked it number one. “Course offerings” was listed by 8.7% of the respondents as one of the top three issues, but less than 1% felt that it was worthy of being made a top priority. “Course content” was in the top three for 5.2% of the respondents, but was not the top issue for anyone. As with the “Class size” choice, issues like “Course content” and “Course offerings” may also have been considered and lumped into the “Other” category for the number one issue. Input in both “Course offerings” and “Course content” would presumably be coupled with more input into how the university and/or department is run. If graduate students were able to have more say, “Class size,” “Course offerings” and “Course content” could be part of what they would help in determining.



In anticipation of “Wages and Salary” garnering much support as the number one issue to the graduate students surveyed, we took the time to ask them if they held a job either on or off campus in addition to their teaching duties. An overwhelming majority of the students indicated that they did not hold additional employment. One student that did not have another job said, “it’s hard to do research, write, and complete a doctoral program if you’re always low on cash, and freaking out over how you’ll get summer funding to do your work, or get a job (in this economy) and still try to do your work.” It appears that while students feel that they need more money for the work that they perform, they cannot feasibly do an adequate job teaching, work to further their own education (which

presumably is the reason why they are there in the first place), and earn enough money to live.

Another student explained why he or she did have outside employment: "Our department only pays for 25 hours per week, even though you are required to work 40+, and you are not allowed to 'bank' hours to take any time off. If I work two weeks, for 40 hours per week and get paid for 25, and then want to take a week's holiday, I have to do so without pay." That person responded that he or she did hold another job for which he or she worked between "0-5" hours per week. One student stressed the fact that the current system basically discriminates on the basis of social status. This student explained that "negotiating a living wage for graduate student teachers [sic] the first step in recognizing the services of grad teachers and allowing graduate education to remain open to those of all income levels without forcing people into unmanageable debt;" echoing the sentiments of graduate students everywhere.

Of the respondents who indicated that their wages, salaries, and stipends were their only source of income, 70.9% responded that they did not hold jobs other than their teaching positions. For respondents who said that they did have another job, 39.6% worked between "5-10" hours per week. The remaining results were as follows: 22.9% indicated that they worked only "0-5" hours per week, 16.7% indicated that they worked only "10-15" hours per week, 12.5% indicated that they worked only "15-20" hours per week, and 8.3% responded that they worked "20+" hours per week in addition to their hours spent teaching their class sections and writing for their graduate degree.

Upon analyzing the data, it seems clear that we should have asked for the reasons why those who so responded, did not hold another job. It would be interesting to find out the reasons why the students that responded that "Wages and Salary" was their number one issue in contract negotiations would not attempt to acquire additional employment to make ends meet. From the responses gathered, however, it seems clear that the graduate student teaching positions are too time consuming and as a result, the student cannot hold any other meaningful employment while still maintaining his or her own educational responsibilities.

B. Successes and "Roadblocks"

When asked how they would classify their success rate in achieving the goals referred to above, 41.0% of the students responded that their success rate had been or was expected to be "Good." In addition, 16.3% responded that their success rate had been, or was expected to be "Excel-

lent” and 25.9% indicated that they had or expected a “Fair” success rate in achieving their goals. Last, 12.0% selected “Poor,” but only 4.8% of the respondents indicated that they had been unsuccessful and that their success rate was “Extremely Poor.”



C. Chief Source of Resistance to Unionization Efforts²³⁷

When asked what the students felt their chief source of resistance to unionization efforts was on campus, an overwhelming majority said “Administrators.” In all, 82.5% of the respondents indicated that “Administrators” were the chief source of resistance to unionization efforts and 14.6% of the respondents indicated that their fellow “Graduate students” presented their largest source of resistance. Only 2.3% of those responding to this question indicated that “Faculty members” provided

237. Question Seven asked graduate teaching and research assistants to indicate the chief source of resistance to unionization efforts on their campus. The question asked respondents to “indicate all that apply,” however, due to technical difficulties only one response was recorded for each respondent. The choices available to respondents appeared in the following order: administrators, faculty members, graduate students and undergraduate students. The survey was designed so that respondents had to select a response to each question. The survey was not designed to default to any one of the selections if the respondent did not answer a particular question. Thus, graduate students answering this question would have had to make a selection in order for it to register a response.

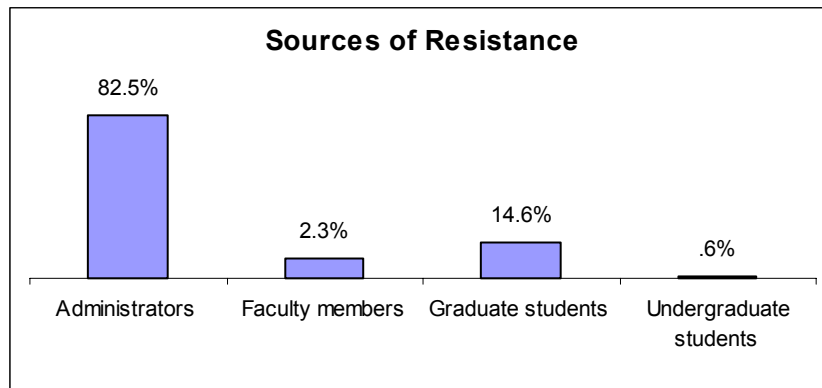
resistance. Last, a number of students, .6%, indicated that “Undergraduate students” on their campus provided a source of resistance.

In the textbox preceding or following Question Seven,²³⁸ a number of respondents indicated their additional choices in writing. One teaching assistant wrote,

I'd like to select both 'administrators' and 'graduate' students . . . Administrators: [sic] because they consistently infantilize grad. [sic] students and refuse to recognize that we are adults with a) adult issues like families and careers and b) extremely solid and heartfelt ideas about teaching and the university. Grad. [sic] students because grad [sic] student [sic] aren't, by nature, labor activists, so they resist joining the union and, when they do join, construct weak and unviable strategies toward union recognition.

Another student wrote,

They're all important obstacles: administrators get paid to pit students against faculty; faculty who think life still works as if it did when they were grads [sic]; grad [sic] students who fear retribution, have never has [sic] access to unionization or unions and have no clue or don't know labor history.



238. Question Seven reads: What has been the chief source of resistance to unionization efforts on campus? Please select all that apply): a) Administrators; b) Faculty members; c) Graduate students; d) Undergraduate students.

D. Additional "Roadblocks" to Unionization Efforts

In two instances, we asked open-ended questions in the survey and gave the respondents an opportunity to type their response to the question posed. The first question to allow respondents this opportunity focuses on the goals that graduate student unions set for themselves when negotiating a new contract with the university. The second question to allow typed responses is Question Eight,²³⁹ which allowed respondents to discuss additional "roadblocks" to their unionization efforts. The responses we received here were very revealing and echoed the diverse sentiments of the respondents.

Not surprisingly, many of the respondents indicated that university administrations and administrators were the chief "roadblock" to their unionization efforts. Some respondents even charged that certain university administrations had gone as far as committing unfair labor practices in their quest to stop graduate students from organizing. One student indicated, "I was recently arrested for handing out union leaflets outside the building I do my research in." Others have indicated that "the administration has taken a hard-line anti-union [stance]. It does not matter if it's a graduate employee union or a janitors [sic] union, the administration tries [sic] to bust them." Some respondents charged that deans at the graduate schools have threatened students by saying that "their situations will be negatively affected if they supported unionization."

In a number of responses from graduate students at Yale University, President Richard C. Levin was cited as the chief roadblock. One student indicated, "President Levin will never agree to discuss the fair process of unionization or to recognize secret ballot results." Another student stated, "quite simply, the Yale administration has refused to consider a grad student union. They have spent millions of dollars in lawyer and consulting fees blocking unionization efforts. Their entire graduate student policy is anti-unionization." Lastly, a teaching assistant at Yale indicated in response to Question Eight²⁴⁰ that "I'm at Yale; you probably know the roadblocks we've faced, since they're legendary at this point."²⁴¹

239. Question Eight reads: What kind of "roadblocks" have you run into in your unionization efforts? Explain.

240. *See id.*

241. Yale is not the only university where students criticized their President. One respondent had the following to say about University of Pennsylvania President, Judith Rodin, "[she is] a self proclaimed CEO who is simultaneously the highest paid university President and the most ruthless union buster known to any university campus."

University administrators are not the only roadblocks cited by students. The graduate school faculty is also discussed as part of the responses to Question Eight.²⁴² One student remarked, “[t]he faculty is split.” Another student echoed these sentiments and said, “[a] further difficulty comes from senior faculty, for whom the current realities of the academic job market are extremely foreign; it is especially frustrating that there are a number of senior faculty . . . who support . . . unionization but are terrified to say so because they fear administrative retribution.” Last, another respondent criticized faculty members by stating that “many faculty still think life works as it did when they were grads.”

Students responding to this also indicated that many of the faculty members in their own department did not come out in support of their efforts to organize. In at least one case, the faculty threatened research assistants with the loss of employment if they participated in concerted activity. This student stated, “[f]aculty in my department have threatened to fire graduate students in their labs if they participated in our recent strike.” Many, if not all, full-time faculty at universities collectively bargain with the universities at which they teach. Accordingly, one would expect that faculty members would be outspoken supporters of the efforts of graduate students to unionize. As we have seen this is simply not the case.²⁴³ One student put it best when stating, “even those supportive of unionization do not work very hard to show their support.”

The unions themselves and the students who work to organize their colleagues did not escape the “roadblock” finger pointing. At Yale, one teaching assistant responded that “GESO is terrible and tactically inefficient.” Another graduate student called the United Automobile Workers an “unresponsive, undemocratic union that screwed things up for itself. . . . The main problem is the UAW and the student agitators.” Other respondents were turned off by the tactics used by the graduate union in trying to organize. Similar responses indicate that the union sometimes chooses an excessively adversarial approach and sometimes behaves in ways which alienate potential union members. Unions have also been ineffective in countering misinformation that administrators have set forth in the various debates on campuses across America.

Respondents to Question Eight²⁴⁴ also placed blame on the shoulders of some of their fellow graduate students and undergraduate stu-

242. *See supra* note 239.

243. One student responded that the “faculty and students are now too polarized to say much to each other honestly.” Another remarked that many of the faculty in the life sciences have conducted an intense anti-union campaign against students.

244. *See supra* note 239.

dents. For nearly all of the graduate students seeking to organize, this is their first exposure to organizing drives, unions, and collective bargaining. This has led to the criticism that union leaders have no clue, or do not know labor history. Some of the graduate students also fear retribution and, therefore, do not support unionization. Others are satisfied with the current compensation packages and fear that unionization will erode some of these benefits. There is also a segment of the graduate student population that is not concerned about this issue and is more concerned with his or her own situation. Moreover, at some universities, undergraduate students have been pitted against the graduate teaching and research assistants on their campus. While this has been cited as a roadblock, it is not one that was mentioned often by respondents.

As we have seen, not all of the responses reflected a pro-union attitude. For example, one student wrote, "graduate student unionization is just another pawn in big labor's game." Another student indicated that there were no "roadblocks," as 70% of the students at the university voted against unionization. A research assistant who did not support the union indicated that it is the students, professors, and administrators that have been the "roadblocks." Another student responded by saying, "there are many students who feel as though they do not need a union to protect them (our stipends are generous in comparison to the living expenses of a single adult)," and adding that such students resent the aggressive recruiting of the union. The student indicated that "people rarely hear from these students."²⁴⁵ Last, another response reflects what might be characterized as a divergence of opinions between graduate students from different departments or disciplines—"Science grads don't want unionization."

E. Types of Support

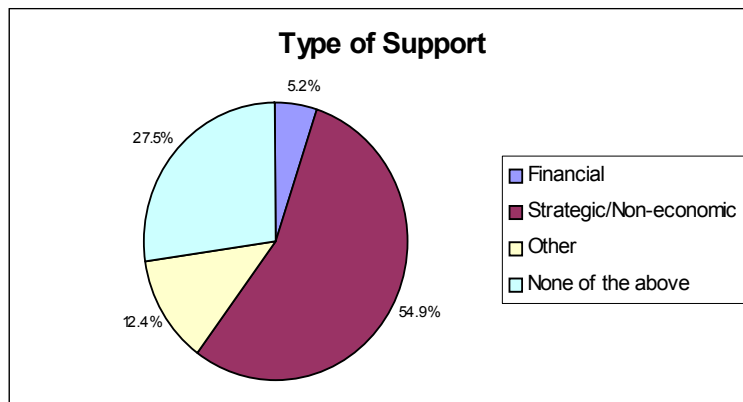
It is clear that graduate teaching and research assistants encounter various roadblocks in their efforts to unionize. However, they also receive a significant amount of support from outside sources. In Question Nine,²⁴⁶ we asked students what type of support was provided to them by other student unions. As indicated below, 54.9% of the respondents indicated that they received "Strategic/Non-economic" support from other unions, while 5.2% indicated that they received "Financial" support.

245. Another respondent echoed the statements made in previous decisions of the NLRB in this area which is "we are not employees, we are students."

246. Question Nine reads: What type of support, if any, is provided by other student unions?

Throughout our research for this project, we have paid close attention to the various informational sources that are available when it comes to unions supporting the efforts of other unions.²⁴⁷ One of the most popular and well-developed of all these sources is the website and accompanying listserv of the Coalition of Graduate Employee Unions (“CGEU”).²⁴⁸ Since subscribing to CGEU’s listserv in March 2003, we have been able to witness, first hand, the types of support available to graduate unions. Some of the information that has been exchanged consists of strategies for being successful at the bargaining table, stepping up pressure on administrators to negotiate and ending discriminatory policies of administrations against particular student groups.²⁴⁹

Non-economic support is also provided in the form of phone-ins, petitions, and other expressions of solidarity to unions involved in heated or contested fights with their administrations.²⁵⁰ The CGEU also holds a conference each year in an effort to give its members an opportunity to provide updates on contract negotiations, to discuss strategies, and to brainstorm new ideas and approaches.²⁵¹



247. These include union websites, listservs and other on-line services.

248. <http://www.cgeu.org> (last visited on Apr. 12, 2004).

249. For example, Oregon State University (OSU) circulated an e-mail seeking the support of fellow graduate student unions and their members in the union’s fight to obtain health care benefits. Posting of Luke Ackerman, ackermal@hotmail.com, to cgeu-list@cgeu.org (May 23, 2003) (copy on file with authors). Union leaders at OSU provided a form letter and the e-mail address of the university president so that supporters could voice their support for the student union.

250. Posting from Teaching Assistants Association, taa@gdinet.com, to cgeu-list@cgeu.org (May 8, 2003) (copy on file with authors).

251. Lastly, the Coalition of Graduate Employee Unions also seeks support from and provides support to graduate teaching unions at universities outside of the United States. In all, there are twenty-one recognized graduate student unions in Canada. See <http://www.cgeu.org/websites.html> (last visited April 12, 2004).

F. Unionization and the Impact on Graduate Education

With such hotly contested opinions and positions in academia on this issue, we thought it would be interesting to explore the impact that all of this conflict has had on the students' own education. We asked the students what impact, if any, they felt that unionization and/or unionization efforts have had on their graduate student education. We then asked whether they would consider the impact to be a positive one or a negative one. The degree of impact was pretty evenly distributed across the board in terms of the percentages that responded for each category. One problem may be that there was a 97% response rate in answering the severity of the impact but only a 92% response rate in the indication of "Positive" or "Negative" impact, leaving a 5% margin of error.

Most respondents, 29.7%, thought that being in a union or taking part in unionization efforts has had a "High impact" on their graduate education, while 27.3% thought that the impact was "Moderate" and 23.3% reported "Little or no impact" at all. There were 16.3% of students that responded indicated "Slight impact" on their education.

Even more impressive was that 66.9% of the students that responded indicated that the impact they felt on their education, be it high, moderate, or slight, was "Positive." Only 25.0% responded that being in a union, or the ongoing unionization efforts, had negatively impacted their education. Part of the explanation for the 5% margin between the two responses is in the 23.3% that indicated "Little or no impact." Those students that did not feel that unions or unionization efforts impacted their education at all would feel no need to indicate a "Positive" or "Negative" response since their initial "no impact" did not warrant any qualification.

G. Unionization and the Impact on the Student-Faculty Relationship

Many administrators have argued that graduate assistant organizing would disrupt graduate student-faculty relationships. They believe that the university is an intimate academic community, which may be easily disrupted. We thought we would explore how, if at all, being a union member or taking part in unionization efforts affected the graduate students' relationships with the members of the university faculty that they work for.

The majority of the respondents, 50.6%, indicated "Little to no impact" at all, while 31.4% reported only a "Slight impact" on the relation-

ship. Very few reported “Moderate” or “High impact”—9.9% for “Moderate” and 4.7% for “High.” Again, here, students were asked to qualify the impact on that relationship, either “Positive” or “Negative.” And again, there was a discrepancy between the number of people that responded to the impact and number of people that responded either “Positive” or “Negative.”

The margin here was much larger—17%. However, there was a much larger “Little to no impact” category in this question, which may or may not account for the discrepancy. Of the 87 responses that answered “Little to no impact,” 30 people did not qualify that impact as either “Positive” or “Negative.” We believe that the 30 responses that did not get recorded as either “Positive” or “Negative” were those that did not realize any impact at all. Of the remaining 57 “Little to no impact” responses, presumably representing the low impact group, 42 indicated that the impact was “Positive” and 15 indicated little “Negative” impact on their relationships with the faculty at their university.

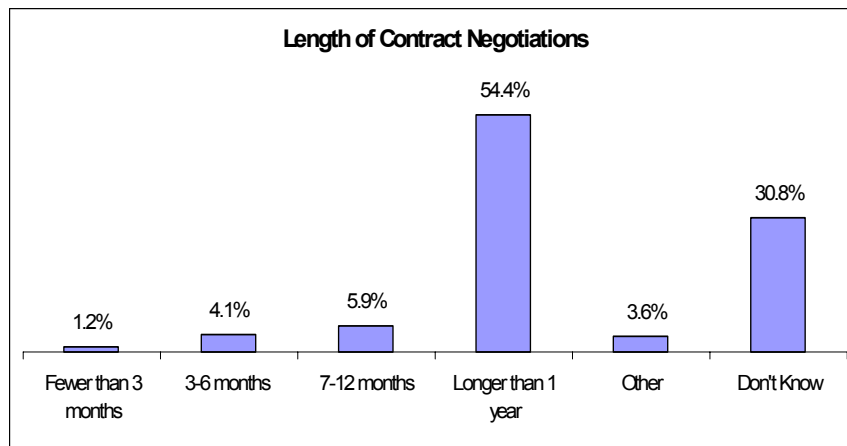
For those that experienced a “Slight” impact on their relationships with the faculty, 24 classified the impact as “Positive,” representing 44.4% of the “Slight” answers, 29 said it was “Negative,” representing 53.7% of the “Slight” impact and one did not qualify the impact one way or the other. Seventeen people, 9.9%, indicated that there was a “Moderate impact” on their relationships with the faculty. For those that reported a “Moderate impact,” the split was roughly equal between “Positive” and “Negative” experiences, with one non-qualified response. Of the few respondents that experienced a “High impact” in their relationship with the faculty, eight responses, 75% of them, indicated that the impact was “Negative.” The trend seems to be that the larger the impact unionization has on the relationships between the graduate students and the faculty, the more negative it is as well.

H. Length of Contract Negotiations

The duration of contract negotiations at the bargaining table with employers varies from profession to profession. While a union bargains on behalf of its members over the terms and conditions of employment, these negotiations take different forms. The issues surrounding graduate student unionization are hotly contested by both sides and lead to long and protracted negotiations. Question Three²⁵² addressed the duration of

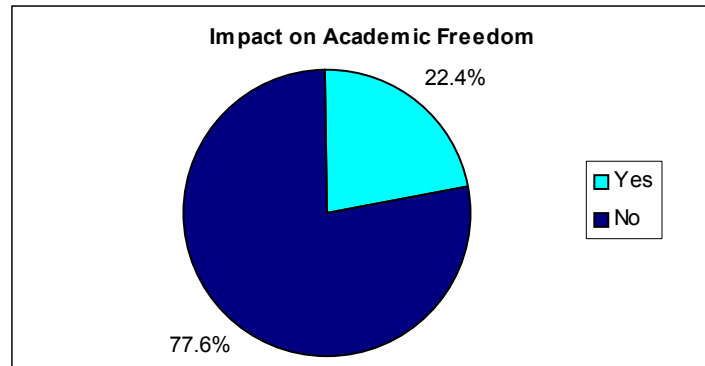
252. Question Three reads: How long did it take, or how long do you anticipate it will take, to reach an agreement with the university? a) Fewer than 3 months; b) 3-6 months; c) 7-12 months; d)

contract negotiations. A majority of the respondents, 54.4%, indicated that it had taken or that it will take longer than one year to reach an agreement. Meanwhile, only 1.2% indicated that an agreement could be reached in less than three months, another 4.1% responded that it would take three to six months to reach an agreement and 5.9% indicated that it would take seven to twelve months to reach an agreement. In addition, 30.8% of the respondents indicated that they did not know how long it took to reach an agreement or how long negotiations lasted with their respective university. This would seem to indicate that these respondents are not necessarily leaders of the unionization efforts; rather they are ordinary graduate teaching or research students who would be covered by a collective bargaining agreement but were not participants at the bargaining table. Only 3.6% of the respondents selected the option marked "Other." While this response may not be of any value in determining just how long negotiations lasted between the student unions and certain institutions, it does indicate that in some cases, albeit a few, negotiations lasted longer or have lasted longer than one year.



Longer than 1 year; e) Other; f) Don't Know.

I. Impact on Academic Freedom



Many university administrators oppose graduate student unions out of fear that they will have an adverse impact upon academic freedom. As discussed previously, administrators claim that bargaining in an academic setting is not feasible.²⁵³ According to university administrators, economic and educational concerns overlap, and as a result granting bargaining rights to graduate assistants would result in negotiating academic issues.²⁵⁴ Universities have long subscribed to the notion that it shall be for the university to “determine for itself on academic grounds who may teach, what may be taught, how it shall be taught, and who may be admitted to study.”²⁵⁵ As we have seen, collective bargaining negotiations are limited to wages, hours, and other terms and conditions of employment.²⁵⁶ Currently, universities “negotiate with individual graduate assistants over their terms and conditions of employment,”²⁵⁷ but now as a result of the *NYU* decision, universities must negotiate collectively.²⁵⁸

253. *New York Univ.*, 332 N.L.R.B. 1205, 1206 (2000).

254. *Hayden*, *supra* note 16, at 1261.

255. *Sweezy v. New Hampshire*, 354 U.S. 234, 263 (1957) (Frankfurter, J., concurring). Academic freedom also encompasses the right to speak freely in the classroom and to determine such fundamental matters as the right to set “course length and content, to establish standards for advancement and graduation, to administer examinations, and to resolve a multitude of other administrative and educational concerns.” *St. Claire’s Hosp. & Health Ctr.*, 229 N.L.R.B. 1000, 1003 (1997).

256. *New York Univ.*, 332 N.L.R.B. at 1208.

257. *Id.*

258. *Id.*

While administrators, correctly or not, seem to believe that collective bargaining with graduate assistants will lead to an infringement upon academic freedom, the graduate students themselves overwhelmingly disagree. As our survey results indicate, 77.6% of the respondents believe that collective bargaining with their university would have no impact upon academic freedom. Conversely, only 22.4% of the respondents anticipate that there will be an impact. The responses here may suggest that graduate assistants are not primarily concerned with “who may teach, what may be taught, how it shall be taught, and who may be admitted to study,” but, rather, concerned more with obtaining higher wages and health benefits. Student responses affirm this conclusion.

VI. CONCLUSION

Our main reason for wanting to do this survey initially was to explore the arguments on both sides of the table when it comes to graduate student unionization. The principle argument set forth by the administrations of various universities is that graduate assistant collective bargaining would force academic institutions to bargain with graduate students over educational issues, thus impeding academic freedom. Universities felt that granting the students the ability to collectively bargain would require them to bargain over issues such as class size, course offerings, and course content. While many of these topics may not even be subject to negotiation at the bargaining table,²⁵⁹ the results of our survey indicate that the issues that universities fear are not at the top of the list of the graduate students themselves.

Overwhelmingly, the respondents from the seven universities surveyed indicated that the most important issues to them were wages and health insurance. We saw a direct correlation between the two issues as well, in that some students made it clear that with higher wages they could then acquire and secure better health insurance for themselves and their families. The fact that graduate students did not rank issues such as job security, class size, course offerings, and course content ahead of wages and health insurance indicates that for those students, those items are not the most important to them. A small segment of the respondents indicated that they would prefer to have a voice in the decision making process within their department. While non-compensatory issues are im-

259. “Mandatory collective bargaining does not typically include such issues—they fall into the voluntary category and require the agreement of both sides in order to be included in negotiations.” Miller, *supra* note 153, at 79.

portant at some level to graduate students, they do not dominate the landscape at the seven universities we surveyed.

It appears that the administrators' resistance to graduate student unionization is not driven by concerns over academic freedom but rather the prospects of having to pay graduate teaching and research assistants higher salaries and provide them with health care benefits. Graduate teaching and research assistants provide a cheap source of labor enabling universities to offer a full academic program to its tuition-paying undergraduate students. While many full-time faculty members are consumed with research and scholarly publication of their own, it is the graduate teaching assistants that help to sustain the university.

The position that many administrators have taken clearly contradicts the universities' position that academic institutions should not be run like corporations. According to administrators, universities are institutions of higher learning, where the pursuit of scholarship and innovative thinking should not be compromised by concessions at the bargaining table. However, administrators likely recognize, but do not acknowledge, that bargaining collectively with graduate students does not necessarily mean that there will be an erosion of these ideals. More importantly, the position of administrators is undermined when they act like directors of corporations in trying to enhance the reputation of their institution and quality of education received there while, at the same time, minimizing the costs of doing so to remain competitive with other academic institutions. Seemingly, administrators want to maintain an advantage over their teaching and research assistants by claiming that academic freedom will suffer at the hands of collective bargaining agreements. From this vantage point, the decision handed down by the National Labor Relations Board in *New York University* has had, and will continue to have, a profound effect on private educational institutions.

Our survey has shown that this does not have to be the end of the story. We hope that graduate student unions will use our survey data and our results to change their approach towards university administrators. Our survey responses have overwhelmingly indicated that the academic freedom issue, while important to some, is not the most important issue to the majority. Perhaps union representatives could utilize this information when negotiating with the administrators. For example, the parties could perhaps negotiate on a smaller scale, not subject to election, about the appropriate topics for later bargaining negotiations. From our responses, we have seen that students want to negotiate over their salaries and wages, as well as the opportunity to have health insurance. They

seem to be willing to sacrifice the ability to bargain over their class sizes and the course content to be able to do so.

Our research has shown that this has not been the tactic taken by the union representatives in these situations. The all-or-nothing approach seems to be what has led to the animosity and subsequent intense fall-out from graduate students' attempts to unionize. To be fair, our results only represent a small cross-section of graduate students when measured against the national back-drop. However, they are responses from graduate students nonetheless and deserve credence.

Similarly, university administrators may need to reexamine the position that they have taken in this debate. They should abandon their traditional view that graduate assistants are primarily students and not employees and the notion that unions do not have a place in academia. The existence of faculty unions for the past thirty years undermines this argument and the overwhelming statistics on graduate student course loads at both public and private universities prove otherwise. Rather than attempting to block student organizers completely, administrators should seek a common ground from which to begin negotiations. This approach would give administrators an opportunity to persuade graduate union organizers to limit the topics subject to negotiation. From what we have seen, this argument will fall on receptive ears.

Gerilynn Falasco^{*} & *William J. Jackson*^{**}

^{*} There was a time when I never thought Bill and I would finish this note, but eventually we did and it has turned out better than I could have hoped for. First and foremost, Bill thank you so much for your patience and understanding; without it, I would have had a nervous breakdown on top of everything else. You're a true friend. Similarly, I would like to thank my husband Todd for all of his love and support throughout this entire process. You were there lending a helping hand whenever I needed it. I love you. To my family and friends who were there for me at home, at school, and in the hospital all those times, I owe it all to you and I cannot thank you enough. Due to everything that I have been through during the writing of this note, I would like to dedicate it to everyone in my life that has helped me through this time. Without all of you, I never would have been able to accomplish everything that I have these past three years!

^{**} First, I want thank my co-author Gerilynn for her friendship and her tireless hard work on this note. You always handled everything with grace and style. I would also like to express my appreciation to Professor Grant Hayden for his guidance during the note writing process and to Timothy Smith for his careful editing. Additionally, I would like to acknowledge the editorial staff of the *Hofstra Labor & Employment Law Journal* for their time and input. Most importantly, I want to thank my fiancé, Christine Maroulis, for her unconditional love, encouragement and understanding during my law school journey. I will love you always. I especially want to recognize my parents for always believing in me, even when I did not believe in myself, and for always showing me their unwavering love and support. I could not have asked for better role models. Last, I dedicate this note to the memories of Maude M. Jackson and Martin F. Ward.

Appendix A

THE SURVEY

University: _____

Department: _____

1. Please choose the category that best describes you:

- a) Teaching Assistant (TA)
- b) Research Assistant (RA)
- c) Administrator
- d) None of the above

2. Has the University recognized your bargaining unit?

- a) Yes
- b) No

3. How long did it take, or how long do you anticipate it will take, to reach an agreement with the university?

- a) Fewer than 3 months
- b) 3-6 months
- c) 7-12 months
- d) Longer than 1 year
- e) Other
- f) Don't Know

4. Please select the top three (3) issues that are most important to you when it comes to negotiating a contract with the University?

- a) Wages and Salary
- b) Health Insurance

- c) Pension and other Fringe Benefits
- d) Job security
- e) Class size
- f) Course offerings
- g) Course content
- h) Other

5. How would you classify your success rate, or what do you expect the success rate to be, in achieving those goals?

- a) Excellent
- b) Good
- c) Fair
- d) Poor
- e) Extremely Poor

6. Out of the three you selected which goal is most important to you and why?

7. What has been the chief source of resistance to unionization efforts on campus? (Please select all that apply):

- a) Administrators
- b) Faculty members
- c) Graduate students
- d) Undergraduate students

8. What kind of "roadblocks" have you run into in your unionization efforts? Explain.

9. What type of support, if any, is provided by other student unions?

2004]

The Graduate Assistant Labor Movement - Appendix A

805

- a) Financial
- b) Strategic/Non-economic
- c) Other
- d) None of the above

10. What impact, if any, do you feel that unionization has had on *your* graduate student education?

- a) Little to no impact
- b) Slight impact
- c) Moderate impact
- d) High impact

11. Would you classify that impact as:

- a) Positive
- b) Negative

12. Do you feel that graduate student unionization will/has negatively affected academic freedom?

- a) Yes
- b) No

13. What impact, if any, do you feel that unionization has had on your relationships with the faculty?

- a) Little to no impact
- b) Slight impact
- c) Moderate impact
- d) High impact

14. Would you classify the impact as:

- a) Positive
- b) Negative

15. Do you hold any other job, on campus or off?

- a) Yes
- b) No

16. If so, how many hours do you work there per week?

- a) 0-5
- b) 5-10
- c) 10-15
- d) 15-20
- e) 20+