

Northeastern University

Office of the Provost

Frequently Asked Questions About Graduate Students and Unions

The issue of whether certain graduate students can be members of unions is currently receiving national attention. Northeastern feels it is important to share with you a number of considerations that our community should think about as this issue is debated in the media and around the nation. Most people agree that graduate students are first and foremost students and that the “representation” of graduate students by a nonacademic external organization will affect the individualized scholarly and experiential work that graduate students come here to pursue. Whether this external “representation” will be additive to the graduate students’ learning, academic progress and developmental experience here is the focal point of any discussion.

Northeastern is a global, experiential, research university. What sets us apart is our distinctive educational approach which integrates rigorous classroom study with real world experiences, including the cooperative education program. As part of our commitment to experiential education, Northeastern students engage in research and teaching in order to gain invaluable experience in furtherance of their education.

We hope you find this information helpful. From time to time we may provide additional factual information on these topics. We encourage you to bring any questions you may have to Phil He, Associate Vice Provost for Graduate Education.

The National Labor Relations Act

Why are people suddenly talking about graduate student unions?

For many years, the National Labor Relations Board (“NLRB”), the agency that administers the National Labor Relations Act (“NLRA”), held that graduate student assistants at private universities are not employees covered by the NLRA because their relationship with their universities was an educational, not an economic one. In the summer of 2016, in a decision involving Columbia University, the NLRB reversed that long-standing precedent and ruled that, under certain circumstances, private university graduate teaching and research assistants may be considered employees for purposes of the NLRA and may be represented by unions.

Co-ops

Would union representation of graduate students have an impact on their participation in the co-op program or other experiential opportunities?

Possibly, but at this point, we do not know. What we should be concerned about is whether the NLRB would require Northeastern to bargain with a union representing graduate students over the terms of co-op placements. For instance:

- Unionization of graduate students could alter the eligibility of graduate students to participate in a co-op program and could affect the relationship that students have with co-op employers.

- In addition, some employers who are concerned about being interpreted to be a joint employer with the university, rather than as a separate employer, might reconsider their participation in the co-op program if graduate students are represented by a union.
- Many students seek out their own co-ops and the effect of unionization could diminish those opportunities (e.g., under most union contracts, individual “employees” cannot negotiate their own terms and conditions).

Background Information about Unions, Unionization, and Union Representation

What is a union?

A union is an organization that serves as an external or third party agent representing a specific group of employees. This group is called a “bargaining unit.” Most unions are large, national organizations with local chapters. Newly formed groups will usually affiliate with an established labor union. The established union has organizers who work fulltime for the union. The union organizers may or may not have a background in higher education. Some of the unions currently seeking to organize in higher education include the United Auto Workers (“UAW”) and Service Employees International Union (“SEIU”). These organizations typically represent workers in occupations with no connection to higher education.

Why would a union want to represent graduate students?

All union members must pay dues to the union, which are typically a percentage of the members’ compensation. In most collective bargaining relationships, even those who do not become union members are required to pay an agency service fee, which is roughly equivalent to the union membership dues.

How does a group of employees become unionized?

The process typically begins with a paid organizer(s) from a union. The organizers will engage in discussions with those identified as potential members. Those discussions may then lead to efforts by union organizers to collect “authorization cards” from those they want to unionize. Authorization cards are legally binding written declarations signed by potential members of a proposed collective bargaining unit stating that they want a particular union to be their exclusive representative for the purposes of negotiating the terms and conditions of their employment with their employer. If a union is able to collect enough cards to constitute a valid “showing of interest” (generally a showing that 30 percent or more of the potential members the union seeks to represent have signed cards), the union can file a “representation petition” with the NLRB. The NLRB will then hold a secret-ballot election to determine whether the union would represent the entire proposed group covered by the election.

It is important to remember that if there was ever an election at Northeastern, each eligible voter is always free to vote however he or she wants in the secret ballot election on union representation, regardless of whether he or she has previously signed an authorization card. While the card may be legally binding for purposes of a union getting approval for an election, signing a card does not require an eligible voter to vote for a union.

In the event you are ever presented with an authorization card to sign, we urge you to become educated about union representation and collective bargaining before considering signing any legally binding card.

How do unions obtain the right to be the exclusive external representative of employees?

Union representation is determined by a secret-ballot election in which those deemed by the NLRB to be eligible to be in the proposed bargaining unit are entitled to vote “yes” or “no” on the question of whether they want union representation. If a majority of those who *actually* vote choose union representation, all eligible voters would be exclusively represented by the union in their dealings with the university concerning pay, benefits, and other “terms and conditions of employment.”

Who should vote?

In the event of an election, every eligible person should vote because the election outcome is determined solely by the majority of those who actually vote, not a majority of those eligible to vote. Thus, union representation for non-voters will be decided by those who vote. For example, if one hundred individuals are identified as eligible to vote, but only ten actually vote, the future of the entire one hundred is determined by the ten who have voted. Eligible voters are people who are part of the NLRB-approved defined voting unit at the time of the election.

Will students have access to a draft of any proposed contract or a list of provisions that a union would seek to negotiate prior to a vote on unionization?

No. The union may show you contracts from some other places, but Northeastern would not be bound by those contracts. If there were a graduate student union, then Northeastern and the union would have to engage in collective bargaining with respect to “wages, hours, and other terms of employment,” which are broad concepts. Bargaining does not occur until after the union has won the representation election. The union’s agenda for bargaining is typically determined sometime after election by union leadership in discussion with its members.

If a union election was held, could graduate students “opt out” of union representation by not voting?

No. The results of any election would bind everyone in the bargaining unit, including students who do not vote, students who vote “no,” and future students who do not have a chance to vote. By refraining from voting, a student would be essentially casting a ballot for union representation because the lower the actual voter turnout, the fewer number of votes a union needs to win the election.

Who might be in a graduate student union?

Under federal labor law, members of a bargaining unit must have enough in common that they are deemed to share a “community of interest.” It is impossible to predict who would be in a proposed graduate student bargaining unit. Usually, the NLRB gives unions wide leeway to decide who has a community of interest and therefore should be grouped together in a bargaining unit. It is possible that graduate students seeking different degrees, studying in different colleges

and different programs within colleges, and doing different research or teaching may be grouped together and bound by the same terms and conditions as negotiated by the union for all.

Would status as an international graduate student impact inclusion in a union?

International student status does not impact inclusion under the NLRA. The process for determining who is included in the bargaining unit applies to all graduate students regardless of international status. However, it is not yet known whether inclusion in a union may impact rights or privileges associated with visa classification. It is not yet known whether union membership may impact hours of work or training opportunities related to visa classification. For example, if a graduate student's research assistantship is considered employment, it is unclear whether that limits co-op, experiential or OPT opportunities for international graduate students.

What happens if a union wins an election?

The union would become the exclusive external representative of the bargaining unit, including those who voted against union representation or did not vote. This means that the union has the exclusive legal right to negotiate collective terms and conditions of employment, such as pay and benefits, for the entire group. Because the union represents everyone in the bargaining unit, individual students may be bound by a decision with which they do not necessarily agree or that they may not feel would be of benefit to them.

It is important to understand that if a union is established, individual students would not be able to make individual arrangements or opportunities for themselves that differ from the terms and conditions established through collective bargaining by the union. Thus, the university could not make separate arrangements with individual students based upon distinct or individual needs or interests with respect to their teaching and research, but, instead, would have to negotiate these items directly with the union.

Some examples of how the graduate student experience may change include: there may be limitations on how assistants are selected and/or compensated; disputes that arise under the contract would be decided by an external labor arbitrator; the union may institute punishments, such as fines, for various infractions such as coming to work during a strike. Broadly, the union will be deciding what it thinks is best for graduate students.

If a union wins an election, will graduate students' stipends and teaching compensation increase and/or will my benefits be enhanced?

Not necessarily. There is a common misperception that current stipend levels, other forms of pay, and benefits serve as a floor and can only grow with collective bargaining. In fact, there are three possible outcomes in collective bargaining. In a collective process, members of the bargaining unit can get less than they had before negotiations began, they can get the same as they had when the negotiations began, or they can enhance what they had when the negotiations began. There are no guarantees in collective bargaining.

What are union dues and how are they calculated?

Union dues are the cost of membership in a union. They are used to fund the various activities of the union. At New York University (“NYU”), the only private institution whose graduate students are organized, UAW charges its members 2% of total compensation paid to graduate students during the semesters in which they are “employed.” The dues are automatically deducted from the graduate student’s remuneration for teaching or research. According to the UAW, total compensation for purposes of dues includes “wages” from “union work” (i.e., from serving as a teaching assistant and/or research assistant) and the NYU funding package (students’ aid package). It is unclear why UAW charges members based on a funding package which exists separate and apart from any obligation to teach or conduct research. In addition to dues, the UAW charges each member an initiation fee of approximately \$50. This is charged by the union to all current and future students.

What are agency fees and how are they calculated?

In states like Massachusetts which are not “right to work” states, it is legal for a collective bargaining agreement to require students represented by a union to either pay union dues (see above) or an “agency service fee” as a “condition of employment” with their “employer.” An agency service fee is a payment to the union that reflects the cost of administering the collective bargaining agreement and representation by the union. It is usually very close in amount to full union dues. If a union representing graduate students negotiates an agency service fee requirement into a collective bargaining agreement, graduate student assistants covered by the collective bargaining agreement who choose not to become dues-paying members of the union, would still have to pay an agency fee. The union has the right to demand that those who do not want to pay dues or the agency fee must be terminated from their assistantships.

Collective Bargaining

What is collective bargaining?

Collective bargaining is the process in which an employer and a union representing members of a bargaining unit negotiate over the members’ wages, hours, and other terms and conditions of employment.

How frequently are an employer and a union required to meet when they are engaged in collective bargaining?

The law does not require any specific frequency of meetings. It simply requires that the parties “meet at reasonable times and confer in good faith.”

If a union was formed, what would happen to graduate student assistants’ pay and benefits while the collective bargaining agreement is being negotiated?

Typically, there would be no increases in remuneration or enhancements to benefits during negotiations because, as a general rule, wages and benefits are subject to bargaining and cannot be changed without mutual agreement of the parties.

Does the law require the parties to complete their negotiations within a certain period of time?

No. It often takes a year or more to negotiate a first collective bargaining agreement. As noted above, during this period of negotiations, all conditions usually remain frozen where they were at the time of the union election.

What would happen if the students went on strike?

If the union called a strike requiring students in the bargaining unit to stop their teaching and research duties, the university could temporarily or permanently replace those striking graduate student assistants. In addition, the university could stop providing students with assistantship monies while they were on strike. Even if the university did not replace striking graduate student assistants, the time lost to a strike could delay a student's completion of his or her studies and result in a delay in academic progress and payment of additional tuition in order to complete his or her academic program. Those students who chose to work during a strike could be subject to fines or other action by the union.

We encourage you to contact Phil He, Associate Vice Provost for Graduate Education, with any questions you may have about union representation or collective bargaining