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# Public higher education collective bargaining at the crossroads

by Deborah N. Thomas

Attitudes toward collective bargaining among professors in higher education have moved more and more toward acceptance as political and economic pressures have threatened the traditional idea of the university. Among faculty members who view collective bargaining as a way of increasing salaries, or more importantly, as a way of coping with numerous external forces of change, collective bargaining has come to represent a method of redress. That is perceived as an imbalance of power in the governance process.

State statutes providing for the organization of public employees or faculty members in particular, have provided the impetus for this expansion. Public colleges and universities in states with enabling legislation have followed public schools and community colleges into the collective bargaining arena.

Executive Order 10988, in 1962, created the legal framework for collective bargaining in the federal service and prompted much of what has been the subsequent collective bargaining legislation at the state and local level. The immediate growth of public employee unions, including faculty unions was dramatic but over time, growth has tended to follow economic or business cycles. A variety of legislative provisions can now be found, with states mandating or prohibiting collective bargaining activities and a few states excluding certain public employees from coverage.

This legal framework defines the scope of bargaining, making certain subjects non-negotiable and providing set procedures for the resolution of impasses. Economic as well as political realities prevail in this environment which flows with the tide of pressure groups and may change drastically during an election year.

If this were not nebulous enough, there is the added dimension of two branches of government who must agree on the provisions of any negotiated agreement. Public higher education, then, is in a position to bargaining with one branch of government, with all agreements subject to approval by a second branch of government which does not participate in the bargaining process!

The U.S. Supreme Court decision in the National League of Cities case would seem to jeopardize the idea of a federal collective bargaining law providing uniform coverage to all state and local employees. However, due to the narrow margin of the decision, reversal of this decision is perhaps possible at some point in the future.

Most states now have public employee relations boards which administer public employee relations laws, applying standards developed in the private sector, considering the "community of interests" and the wishes of the parties involved when called upon to settle disputes. Unit determination has become an area of concern. This is particularly troublesome in department chairman issues, primarily due to lack of uniformity of professional tasks among institutions of varying size and complexity. Multicampuses also present some unique concerns.

The use of third parties to resolve impasses as mandated by much of the enabling legislation is often criticized for its inadequacies. These procedures usually focus on strikes and strike prevention measures while failing to affectuate an agreement between parties.

The philosophy and principles of sound management in public higher education are not totally different from those used by business and industry. The major differences that do exist, emanate from the legal, political environment and the traditional governance structure which is unique to higher education. The absence of a uniform public employee relations act, similar to the National Labor Relations Act, coupled with the inexperience of public employees and public officials has created confusion and in some ways hampered the development of collective bargaining in higher education. Much work remains before collective bargaining in the public sector attains the maturity enjoyed by the private sector.

So then, what do faculty members confronted by legalistic mazes on the one hand and the encroachments of external forces on the other hand, think about collective bargaining? The overriding consensus seems to be that faculty members in public institutions of higher learning want the opportunity to accept or reject the ideas, methods or results of collective bargaining.

While great improvements in salaries and working conditions have been secured in the last decade, it is difficult to say that such improvements have been a natural occurrence. As faculty have approached the idea of collective bargaining, some basic concerns have centered on the maintenance of institutional independence and the protection of collegiality in academic matters. Faculty collective bargaining developed as a result of adverse economic conditions in a political environment that has threatened job security, salaries and the traditional academic governance system. Faculty member decisions to accept or reject collective bargaining have tended to depend on ideology, the way in which issues were presented along with consideration for the prevailing economic conditions.

The initial impact of collective bargaining on higher education is not yet fully understood. It seems clear, however, that faculties have turned to collective bargaining to protect a way of life that is deemed worthy of survival. It would appear that a redistribution of power is desired though faculties can expect to both gain and lose power.

Collective bargaining in public higher education is at a pivotal point. With the potential for organization of faculty members complete in all but a few states where faculty collective bargaining is permitted by law, the

movement toward collective bargaining is leveling off. The future of collective bargaining in public higher education seems to depend equally on the financial future of higher education and enabling legislation as well as on the organization efforts of bargaining agents and the leadership of all parties involved.

#### References

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