



Cornell University

Barbara A. Knuth
Senior Vice Provost
Dean of the Graduate School

Cornell University
501G Day Hall
Ithaca, NY 14853

Telephone: 607 255-5864
Fax: 607 255-8789
E-mail: bak3@cornell.edu

TO: Cornell Faculty
FROM: Barbara A. Knuth, Senior Vice Provost and Dean
Charlie Van Loan, Dean of Faculty
RE: NLRB Decision on Union Representation for Graduate Students and Guidance for
Communicating with Students
DATE: August 25, 2016

We are writing to provide an update on this week's decision by the National Labor Relations Board in the *Columbia University* case, which resulted in a finding that "student assistants" (teaching & research) at private universities are employees (in addition to being students), enabling student assistants to collectively bargain (i.e., form or join a labor union, dependent on a majority vote in a union representation election). Cornell had joined an *amici* brief in the *Columbia* case, arguing that existing NLRB law should not be overturned and graduate students should not be considered employees because their primary relationship with the university is educational. The University stands by its position in the *amici* brief. Cornell's President will issue a statement on the University's view of the potential impact of unionization on graduate education at the appropriate time.

As communicated earlier, a group of graduate students at Cornell has formed Cornell Graduate Students United (CGSU) which has affiliated with the American Federation of Teachers (AFT) and New York State United Teachers (NYSUT) labor unions. Anticipating this possible change in federal labor law, in May, 2016, Cornell signed an agreement http://gradschool.cornell.edu/sites/gradschool.cornell.edu/files/field_file/union-university-conduct-rules.pdf with CGSU/AFT/NYSUT specifying mutual conduct while the NLRB considered the *Columbia* case, and a set of procedures that would be followed should the NLRB change federal labor law to consider graduate assistants at private universities employees. (It's useful to note that the NLRB ruling in the *Columbia* case also declared paid undergraduates to be employees eligible to collectively bargain, if the university pays them and assigns and controls their responsibilities. That situation will not apply at Cornell – at least not immediately – because of the signed agreement between Cornell and the union which defines the bargaining unit as not including undergraduates or graduate students on fellowships.)

The agreement specifies that a next step, given the change in federal labor law, is for CGSU/AFT/NYSUT to present to an arbitrator union membership/authorization cards signed by at least 30% of the potential collective bargaining unit. Once this is done, the union, upon giving us seven days' notice, can file a petition to represent those students in the bargaining unit, and an election will be scheduled. In such an election, a majority of those who vote will determine the outcome. The agreement also specifies the collective bargaining unit includes all graduate students enrolled in the Graduate School at the Ithaca and Geneva campuses who

hold appointments under University Policy 1.3 as Teaching Assistants, Research Assistants, Graduate Research Assistants, or Graduate Assistants.

Deciding how to vote in a union election is a personal decision that each eligible graduate student must make. Regardless of whether the graduate students ultimately become unionized, we want to maintain as positive of a relationship with our students as possible. For these reasons, in addition to the legal and agreement-related restrictions discussed below about what university leadership and faculty can and cannot say to graduate students about the union, we should all take care to make sure our comments enable graduate students to feel that they are being treated with dignity and respect.

All graduate students should have the ability to hear all points of view as they consider and formulate their own opinions regarding graduate student unionization, and all faculty should have the academic freedom to express their own views (following the guidance below).

General Guidance

The general guidance below is intended to help you frame your involvement in discussions with students. If you have specific questions or concerns, please contact Barbara Knuth at bak3@cornell.edu. **You should feel free to offer any facts, examples, or your own opinions about unionizing in conversation with individual students. However, please make it clear that you are expressing your own personal views on the subject and not speaking on behalf of the University.**

With that being said, please ensure your communications comply with the following guidelines:

- **Do not threaten** – Do not indicate to a graduate student that forming a union (or failing to do so) will result in any adverse treatment of him/her individually or to students as a group. Do not indicate, for example, that joining a union (or failing to do so) will hurt or enhance an individual's job search, research, future, or success at Cornell.
- **Do not interrogate** -- Do not attempt to interrogate, such as asking questions about an individual student's stance on unionizing or involvement in CGSU/AFT/NYSUT. If a student voluntarily indicates s/he is involved with a labor union, you can listen but cannot ask questions. You may initiate a conversation with an individual student (just not in your office, although a student may initiate a conversation in your office) by saying that you would like to discuss issues about graduate student unionization and share your concerns or support with the student if the student is willing to engage in such a conversation, but do not proceed if the student is not interested or seems uncomfortable proceeding with the conversation.
- **Do not coerce** – Do not coerce or demand that a graduate student shares his/her personal opinion about union representation. You can listen to graduate students if they voluntarily express their personal views or other information, and you may share your personal views, in a non-threatening, non-coercive manner. You should have such conversations in public areas, not in your faculty office, to avoid perceptions of

intimidation. You should not post on your office door nor in your faculty office (if you meet there with students) your opinions about union representation, as that could be considered coercive or intimidating for a graduate student who needs to meet with you privately in your office on other matters. You should not send letters or emails to individual or groups of graduate students advising them on joining or supporting a labor union, the benefits or disadvantages of union representation, or to discourage protected concerted activity.

- Do not promise -- Do not promise a graduate student (or group of students) anything of value as inducement to get them to join or not to join a union. A union representative can make such promises; faculty, as agents of the university, may not. You cannot promise anything on behalf of the union or the university.
- Do not undertake surveillance – Avoid the appearance of or engaging in actual surveillance of students participating in protected activity (such as students attending a union meeting or a group of students discussing the merits of whether or not to unionize).
- Do not hold group meetings with students on these issues – The agreement with the union indicates that faculty will not hold department or lab meetings to advise graduate students on joining or supporting the union, the benefits or disadvantages of union representation, or to discourage protected concerted activity. Conversations initiated by faculty should be with individual students, in public areas. If faculty are at group meetings initiated by students and the topic of union representation comes up, faculty may share their opinions as above, stating they are personal opinions, sharing relevant facts or examples, and avoiding threats, coercion, promises, and interrogation.

Students may ask you to respond to issues they have heard from others. They may want you to provide factual information regarding their current stipends, benefits or other matters. If you have the facts, feel free to share them. If you hear information that you know is inaccurate, you can and should correct it, just as you would in response to any other inaccurate information. If you do not know the answer to a question, refer the matter to someone who has the information or obtain the information yourself and then respond to the question.

The Graduate School has information posted and periodically updated on union representation at <http://gradschool.cornell.edu/union-representation>, and the Dean of Faculty has information posted at <http://theuniversityfaculty.cornell.edu/news/graduate-students-united/>.

If students ask you for your predictions on what a potential collective bargaining agreement might contain, please indicate that those negotiations would not begin until after a representation election occurs in favor of unionization, and you are not privy to bargaining agreement discussions.

Please feel free to refer student or faculty questions to the Graduate School at dean_gradschool@cornell.edu or to contact us to help you find the information you need. Thank you for your assistance and for supporting an appropriate climate for these discussions at Cornell.