

Unions and Faculty Governance

by *Christine Maitland and Gary Rhoades*

Christine Maitland has more than 20 years' experience in higher education labor relations. Currently she works as an organizational specialist at the NEA Pacific Regional Office. She was NEA's higher education coordinator and supervisor of NEA's Higher Education Research Center. The author of many articles on labor relations, Maitland also produced "The Future of Higher Education," an interactive CD-ROM. She frequently collaborates on projects with other higher education unions and associations. Maitland, holder of a doctorate from Claremont Graduate School, was an adjunct philosophy instructor for ten years in Southern California.

Gary Rhoades is professor and director of the University of Arizona's Center for the Study of Higher Education. He studies academic labor, higher education, and institutional policy. Rhoades's publications focus on retrenchment, administrative costs, and intellectual property policies. His latest book is *Managed Professionals: Unionized Faculty and Restructuring Academic Labor* (SUNY Press, 1998).

Faculty governance—especially the impact of unionization on governance—is often a key issue on campuses voting on a bargaining unit. Opponents of bargaining depict unions and senates as antithetical, though bargaining unit members and teams often negotiate for expanded professional involvement in campus decision-making. How do faculty members perceive the effect of unions on governance? And to what extent do collective bargaining agreements provide for a faculty role in governance?

First, a look at prior scholarship on bargaining. During the 1970s, most studies focused on the effects of faculty unions on salaries; unionized campuses showing higher salaries.¹ But some scholars also explored the effects of unionization on faculty governance. These scholars—often working in non-unionized settings—presumed that unions would replace or reduce the significance of faculty senates. But most studies found “unexpected peaceful coexistence” and “contractually protected governance systems.”²

Strategic planning—including organizational restructuring, academic program reorganization, and faculty retrenchment—brought faculty governance to the fore in ensuing decades. A recent study—examining strategic planning councils at unionized and non-unionized universities—found that “mature bargaining units” can play “a strong and positive role in decision making.”³ But does this conclusion hold across a broad range of institutions? What do data from recent organizing efforts say about the governance issues of most concern to faculty members? And how should union organizers address these issues?

This chapter answers these key questions and analyzes faculty governance provisions in collective bargaining agreements. Using the Higher Education Contract Analysis System (HECAS) of the National Education Association, we note governance-related language in the contracts, focusing on provisions related to faculty senates, and to divisional and departmental governance. Faculty participation is critical on employment decisions, teaching loads, non-teaching responsibilities, and on academic issues such as grade alterations and textbook selection.⁴ But governance structures are usually the principal concern of faculty when voting for or against the union in an organizing election.⁵

QUESTIONS FROM THE FACULTY FRONT: UNIONS AND GOVERNANCE

One recent study of the relationship between unions and campus governance examined the operation and effectiveness of participative governance. About 91 percent of all surveyed institutions and 98 percent of surveyed institutions with more than 10,000 students, the study found, had a governance body. In contrast, only 73 percent of surveyed two-year campuses had a governance body. Among campuses with collective bargaining, "Seventy-eight percent of the time, the relationship between the collective bargaining unit and the governance body was complementary or actively supportive."⁶

Another survey compared the status and satisfaction of librarians at unionized and non-unionized campuses on scholarship- and governance-related issues. Unionized librarians scored higher than non-unionized counterparts on professional development, sabbaticals, leaves, travel, salary, and pay scale opportunities. Unionized and non-unionized librarians showed near-equal scores on tenure, promotions, peer review, senate eligibility, and overall participatory responsibilities. Non-unionized librarians scored higher only on tuition reimbursement, a benefit offered at independent colleges, where unionization is less common.⁷

A May 1998 survey of randomly sampled NEA leaders and members assessed faculty involvement in campus governance. Leaders were asked about the level of faculty involvement on their campuses in governance. Faculty, reported the NEA leaders, are "least involved in making campus budget decisions, setting the percentage of part-time and non-tenure faculty, and making decisions regarding merit pay and pay equity." Almost 62 percent of the leaders reported the administration made decisions about "allocating the institutions' budget among major categories, such as salaries, buildings, and athletics." Faculty members were highly involved in classroom-related decisions—such as courses offered and modes of instruction—in hiring new faculty, choosing department chairs, and developing tenure criteria.⁸

The survey asked faculty members to rate the actual and optimal levels of faculty involvement in governance. Faculty members

at institutions with collective bargaining were more involved in governance, with two notable exceptions: setting the percent of part-time and non-tenured faculty, and deciding on merit pay. Surveyed faculty wanted more involvement in campus governance, especially in decisions on budget and pay. Two-thirds of the faculty respondents wanted greater involvement in allocating the budget and setting the percentage of part-time and non-tenure-track faculty. Faculty, the study concluded, "also would like to see greater involvement in merit and equity pay decisions as well as in making decisions about the use of new technologies in the classrooms ... the only area in which faculty are already highly involved and still want greater involvement."⁹

The faculty role in decision-making is almost always an issue in collective bargaining elections. Faculty members support bargaining when they perceive erosion of their governance role, but they worry about the effect of unionization on existing governance practices. Will a union usurp and weaken the faculty senate? Will the union add another level of bureaucracy to decision-making? A collective bargaining election held at Illinois State University in spring 2000 illustrates these concerns. A union, argued "Faculty for Shared Decision-Making," the group opposed to bargaining, would destroy the relationship between faculty and the campus administration. After the election—the faculty voted against unionizing by a very small margin—NEA surveyed faculty opinions about the campaign issues.

A 1998 Board of Trustees decision—relegating faculty to an advisory role on academic decisions—was the impetus for union certification. Surveyed faculty respondents gave low ratings to the trustees, but good job approval ratings to the administration.¹⁰ Almost half of faculty supporters of certification answered "extremely likely" to the proposition that a union "would give faculty an independent organization to present the faculty perspective." The second most likely result, according to supporters: a union "will allow faculty at ISU to gain an independent forum to discuss professional issues." The most likely result, according to union opponents: "increased polarization and bitterness between faculty and administration."¹¹

Advice to organizers: note the salutary results of unionization for faculty governance on other campuses, and point out exemplary language in existing contracts.

GOVERNANCE IN THE CONTRACTS

What do collective bargaining agreements say about collegial governance? More than one-third of the 294 contracts in HECAS mentioned governance issues; 92 referred to academic senates. How do contractual provisions support or contribute to faculty governance? Faculty, state most agreements, are expected to participate in service to the university, including membership on faculty committees, senates, councils, assemblies, forums, and attendance at all-faculty meetings. Contrary to common fears, unions do not preclude or supersede collegial patterns of decision-making. Many contracts ensure the continuance of shared governance practices:

The California State University and the California Faculty Association recognize the unique roles and responsibilities of the Academic Senate. (California State University)

The parties recognize the following as valid past practices at Southampton College: ... Academic procedures for faculty participation and consultation in the decision-making process regarding academic policy, program, curriculum, and method of teaching shall not be diminished. (Long Island University, New York)

Nothing in this agreement will infringe upon the shared governance provisions provided in Board policy and delegated to the faculty senates organized on each campus. (Nebraska State Colleges)

These contracts ensure that shared governance practices and structures continue with unionization. One contract even specifies that “faculty” refers not to the union, but to the general faculty.

In jointly supporting the continued maintenance of shared governance as described in this Preamble the parties recognize that the term “faculty” is not limited specifically to the Bargaining Unit ... or to the UNKEA as the certified bargaining agent thereof. Rather, such reference is to the general faculty of the University, and the Faculty

Senate, which is the faculty governing agency. (University of Nebraska, Kearney)

On one campus, the union and administration used interest-based bargaining to negotiate a participatory governance system, including budget development.

Participatory Governance: The parties agree to the participatory governance system described in this Article. The forms of participatory governance utilized shall be determined by each governance body, with the consensus model being preferred.

Budget Development Process: The budget development process shall promote open communication and participation by faculty members at all levels, keeping in mind that the University’s primary function is academic.

The budget development process calls for widespread involvement of faculty and others as appropriate in developing and prioritizing requests at the unit level (department, college, etc.).

The budget development process shall be based on the establishment of priorities at the department level, a ranking of priorities at the college level, then the development of a composite list of priorities for the academic sector.

The overall purpose of this process is to ensure full, open discussion of all requests and whenever possible to reach a consensus. At each level, the department chairperson, director, dean, or provost is responsible for determining the ranking for each priority. (Youngstown State University, Ohio)

Unionizing does not require faculty to give up claims to collegial decision-making and governance.

Of course, enhancing faculty participation in institutional governance is often part of the impetus for faculty unionization. In colleges and universities with a history of limited faculty involvement in governance, contract provisions often work to strengthen—not just maintain—faculty participation in organizational policy and decision-making. Here is a typical provision:

Although the Association, as the elected bargaining agent, retains the exclusive right to negotiate and reach agreement on terms and conditions of employment for members

of the bargaining unit, and the Board of Trustees retains its rights, under law, to manage and direct the University, the parties recognize the necessity of a collegial governance system for faculty and other members of the bargaining unit in matters of academic concern. It is mutually desirable that the collegial system of shared governance be maintained and strengthened so that faculty and other members of the bargaining unit shall have a mechanism and procedure, independent of the collective bargaining process, for making recommendations to appropriate administrators and for resolving matters of concern to the faculty through the organizational structures of the Departments, the Faculty Senate, the Administrative Council, and the Board of Trustees. To that end, the parties agree to the following principles: ... (Delaware State University)

The collective bargaining agreement establishes, extends, and strengthens shared governance contractually.

Large state systems pose another problem when traditions of shared governance differ on each campus.

While the United Faculty of Florida, as the elected bargaining agent, retains the exclusive right to negotiate and reach agreement on terms and conditions of employment for the members of the bargaining unit, and the Board of Regents retains its rights, under law, to manage and direct the State University System, the parties recognize the desirability of a collegial governance system for faculty and professional employees in areas of academic concern. It is desirable that the collegial system of shared governance be maintained and strengthened through the State University System so that employees will have a mechanism and procedure, independent of the collective bargaining process, for making recommendations to appropriate administrative officials. Collegiality in academic governance on each campus of the State University System can best be accomplished through Senates selected by representatives of the appropriate campus constituencies in accordance with each institution's constitution and tradition.... In recognition of the importance of the collegial system of governance described herein, the Presidents or their representatives shall confer regularly with representatives from university Senates or equivalent bodies. (State University System of Florida)

The system's agreement respects the traditions established on each campus while strengthening the faculty role in shared governance throughout the system by mandating faculty consultation.

Unfortunately, many systems and campuses lack a tradition of shared governance—often an impetus for faculty organizing. Limited histories of faculty involvement make contractual provisions particularly significant for two-year colleges. The administration at Linn-Benton Community College (Oregon), states the contract, agrees “to include faculty in decision making processes that affect work related issues.” The Board and the Faculty Association of Monroe Community College (NY), states the contract:

recognize that a faculty governance organization does and will exist. It is the right and responsibility of the faculty to participate in this organization. Although the actual form may vary, this organization will have responsibility for recommending policies related to faculty resources, academic standards, curriculum, educational policies, institutional philosophy and goals, personnel policies, professional development and administrative affairs.

A provision for a technical and community college system goes further.

The Administration and the AAUP recognize that the Faculty has a direct and compelling interest in College issues including, but not limited to long- and short-range planning, priorities in the deployment of financial resources, acquisition and use of existing physical and human resources, institutional self-study, and marketing, public relations, and recruiting activities. The Administration and the AAUP agree that College-wide committees established to make recommendations on such issues, and any such committees established during the period of this Agreement, shall include at least one-third appointments of the Faculty Senate. (Cincinnati Technical and Community Colleges)

These provisions extend faculty involvement in decision-making beyond academic concerns to fiscal and strategic issues.

Many four-year colleges and systems organized to establish a significant role for faculty as professionals in institutional governance. The contracts for these institutions

commonly provide for shared governance for faculty:

In recognition of the fact that the faculty and librarians have fundamental and unique responsibilities in matters affecting the academic wellbeing of the several State Colleges, the parties hereby agree to establish a firm basis for the professional role of faculty, teachers, and librarians in the decision making process at the several State Colleges; ... It is therefore fitting that such unit members assume a primary role in academic decision-making at the several State Colleges in accordance with the terms of this Agreement. In order to ensure participation by all members of the bargaining unit, by students and by administrators in the formulation of policies affecting such academic matters of common concern as are hereinafter prescribed, ... there shall be established at each College an All College Committee. (Massachusetts State Colleges)

In formulating all university policies, procedures and structures the assumption is made that the faculty member is highly professional in the faculty member's area of expertise. Thus it is further assumed that the faculty member is capable of making individual, as well as collective, decisions with fellow professionals concerning matters of instruction, professional conduct and conditions of professional employment and reward. Therefore, the academic administration of the university shall be based upon the principle of shared responsibility in governance. Organizational procedures will place decision accountability as close as possible to the most adequate and appropriate source of expertise and information, and provide for specific evaluation and review of all operations. (Eastern Washington University)

The scope of the faculty's role in governance differs under these provisions. Bargaining agents should seek to extend this role to include fiscal and strategic matters that are related to academic choices. Moreover, within the scope of academic issues, faculty must maintain control of curricular and programmatic experiments and changes. Such control is most effective when contractual language is explicit:

The College may institute new programs of an experimental nature for the purpose of achieving its long range educational mission or improving its financial position.

Such new programs shall be officially designated as experimental and shall, without the written consent of the Faculty, be limited to a duration of two years. At the end of two years, such experimental programs must be reviewed by the Academic Council to continue. The College shall, as set forth in Article XIV Academic Governance, solicit faculty recommendations regarding experimental programs and shall keep the Faculty advised of the development of such programs. (Park College, Missouri)

Some contracts give faculty members the right to grieve the process—though rarely the content—of administrative decisions in matters of shared governance. Sometimes, the contract facilitates faculty action in shaping institutional decision-making that goes beyond the contract.

The Parties acknowledge and agree that the College and the Federation have been engaged in litigation with respect to the propriety of the College's reorganization of ten Departments into five Divisions which said litigation is presently pending before the Commonwealth Court of the State of Pennsylvania. The parties agree that litigation will be settled in the following manner: The College will establish seven Departments as the academic organization of the institution which said Departments shall be... The creation of seven Departments is in furtherance of a recommendation from the Advisory Council related to reorganization. (Bucks County Community College, Pennsylvania)

CONCLUSION

Faculty members must combine involvement in institutional governance with the power of collective bargaining. These mechanisms can work effectively to support each other. But without the force of the contract, the advisory role of faculty in "shared governance" has limited efficacy in an era of reorganization and restructuring.

The real threat to faculty's role in collegial decision-making lies in management, not in unions.¹² Managers effectively claim the need for "flexibility" to make "tough choices" in restructuring institutions and professional labor. The management rights clauses of too many agreements epitomize these claims:

The parties to this Agreement recognize that responsibility for management and operation of the College and the educational program which it represents resides exclusively with the Board elected by the citizens of the District and the Administration appointed by the Board. The College expressly retains all authority and decision making prerogatives connected with or in any way incident to its responsibilities to manage the affairs of the College and any department or program thereof. (Treasure Valley Community College, Oregon)

All management and decision making responsibility for the District is vested exclusively with the Board. (Columbia Basin Community College, Washington)

Management assertion of rights to all decision-making responsibility challenges faculty participation in institutional governance. Unionization does not guarantee faculty's shared governance role; well over half the collective bargaining agreements in HECAS fail to address this right. Worse, some contracts establish exclusive management rights to make decisions. But other union contracts provide for faculty participation in academic decision-making, and even in fiscal and strategic policy-making.

On campuses in the midst of an organizing campaign, contracts can protect past practices in shared governance, if faculty believe these practices work effectively. Unions can provide the force of contractual obligation and protection to existing governance structures, and can work to establish these structures on campuses lacking shared governance.

HECAS contract provisions for the appointment, salaries evaluation, and release of personnel and for governance at the institution, district, and system levels tell similar stories. Unions and professional decision-making practices and structures concerning personnel can also enjoy not just peaceful coexistence but mutual support. Contracts can well serve and strengthen the faculty role in many levels of decision-making.

NOTES

¹ Rhoades, 1998, summarizes these studies. Lee, 1999, 2000, includes recent data.

² Baldrige and Kemerer, 1976; Kemerer and Baldrige, 1981; Lee, 1982; Mortimer and McConnell, 1978.

³ Schuster et al., 1994.

⁴ Williams, 1989.

⁵ We ran searches on the terms govern, decision-making, consult, and senate.

⁶ Gilmour, 1991, 33.

⁷ Spang and Kane, 1997.

⁸ "A Survey of Higher Education Members and Leaders," 1998, 33.

⁹ "A Survey of Higher Education Members and Leaders," 1998, 36.

¹⁰ Only one-fifth of the respondents gave the administration low ratings.

¹¹ "Illinois State University Faculty Opinions on Certifying ISUFA," 2000.

¹² Rhoades, 1998.

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