

NATIONAL CENTER

for the **Study of Collective Bargaining in
Higher Education and the Professions**

2020

Supplementary Directory
of New Bargaining Agents
and Contracts in Institutions
of Higher Education, 2013-2019

William A. Herbert

Jacob Apkarian

Joseph van der Naald

October 2020

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The City University of New York

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The National Center for the Study of Collective Bargaining in Higher Education and the Professions (National Center) is a labor-management research center at Hunter College, City University of New York (CUNY) and an affiliated policy research center at the Roosevelt House Public Policy Institute. The National Center's research and activities focus on collective bargaining, labor relations, and labor history in higher education and the professions.

Since its formation, the National Center has functioned as a clearinghouse and forum for those engaged in and studying collective bargaining and labor relations. The National Center is composed of labor and management professionals, practitioners, and scholars who study contemporary and historical labor-management issues, best practices in collective bargaining, legal and legislative developments, and public support for higher education. Our Board of Advisors includes administrators, union representatives, and scholars from colleges and universities throughout the United States.

Since the mid-1970s, the National Center has collected and analyzed data concerning collective bargaining and strike activity in higher education and has published directories of collective bargaining relationships, bargaining agents, and contracts, with a primary focus on faculty at institutions of higher education.

In addition, the National Center organizes national and regional labor-management conferences, publishes the peer reviewed [Journal of Collective Bargaining in the Academy](#), research articles for other journals, and distributes a [monthly newsletter](#). The newsletter resumed in 2014, following a 14-year hiatus. Through the newsletter, we have reported on representation petition filings, agency and court decisions, the results in representation cases, and other developments relating to collective bargaining and unionization in higher education.

Inquiries regarding our conferences and publications should be addressed to National Center for the Study of Collective Bargaining in Higher Education and the Professions, Hunter College, City University of New York, Brookdale Campus, 425 E. 25th Street, Box # 615, New York, NY 10010-2547, (212) 481- 7662.

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Introduction to the 2020 Supplementary Directory of New Bargaining Agents and Contracts in Institutions of Higher Education, 2013-2019

Since its creation, the National Center has collected and reported on data about collective bargaining relationships and contracts involving faculty in higher education. This information was periodically aggregated and published in annual and semi-annual directories of contracts and bargaining agents at colleges and universities.

The *2020 Supplementary Directory of New Bargaining Agents and Contracts in Institutions of Higher Education, 2013-2019* (2020 *Supplementary Directory*) is a compilation and analysis of data collected by the National Center for the period 2013-2019 of new bargaining units, bargaining agents, and contracts following publication of our *2012 Directory of U.S. Faculty Contracts and Bargaining Agents in Institutions of Higher Education* (2012 *Directory*).¹

The data presented include new collective bargaining relationships and contracts involving not only faculty, but also department chairs,

administrators, librarians, other non-instructional professional staff, post-doctoral scholars, and graduate student employees. It also includes data concerning pre-2013 faculty bargaining units omitted in the *2012 Directory*, data concerning postdoctoral scholar and academic researcher bargaining units, and information about expansions, mergers, disbandments, and decertifications of some pre-2013 bargaining units.

The data presented in the *2020 Supplementary Directory* demonstrates a remarkable increase in new bargaining units at colleges and universities over the past seven years, particularly at private non-profit institutions, among groups of academic labor lacking job security: contingent faculty, postdoctoral scholars, graduate assistants, and other student workers.

Unlike prior directories, the *2020 Supplementary Directory* includes a detailed unit composition description for each bargaining unit as well as hyperlinks to the most recent contract for each new unit. This information is aimed at enhancing future research and avoiding confusion over unit composition, particularly when faculty units include other titles.

1 Berry, J. and Savarese, M. (2012) *Directory of U.S. faculty Contracts and Bargaining Agents in Institutions of Higher Education*. National Center for the Study of Collective Bargaining in Higher Education and the Professions.

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Many individuals and institutions have been instrumental in providing support for the National Center and its research. Most significant is the consistent support from the City University of New York and Hunter College. Chancellor Félix V. Matos Rodríguez and his predecessors deserve our gratitude for their support. CUNY Vice Chancellor for Labor Relations, Pamela Silverblatt, a member of our Board of Advisors, has given us consistently wise counsel. Hunter College President Jennifer J. Raab has championed the National Center's mission, research, and activities, and we are honored by her support. We need to also express our appreciation to Hunter College Provost Lon S. Kaufman and his predecessor Vita C. Rabinowitz, along with Hunter College Dean for Diversity John T. Rose. We thank Jeffrey F. Cross, former Associate Vice President for Academic Affairs, Eastern Illinois University (Emeritus), for his keen comments to an earlier draft of the *2020 Supplementary Directory*. Lastly, we acknowledge the contributions of former Executive Director Richard Boris during his tenure at the National Center.

TIAA, through Christina R. Cutlip, Senior Managing Director, Institutional Relationships, has generously supported the National Center's research and conferences for many years. Without TIAA's financial support, we could not have been able to undertake and complete this project. Additional financial support came from unions, universities, law firms, and businesses that have advertised in our national and regional conference programs.

Our data collection would not have been possible without the assistance of the dedicated professional staff at federal and state labor relations agencies who have responded to our formal and informal information requests and who maintain and update agency websites with data about representation cases in higher education.

We thank the following union representatives who responded to our many inquiries: AFT's Alyssa Picard and Jessica Humphrey; NEA's Valarie Wilk; SEIU's Anne McLeer, Chris Seymour, and Kurt Edelman; UAW's Ken Lang, UFF's Martin Balinsky, and NYSUT's Jonathan Rubin and Mark Chaykin. We also thank the numerous higher education administrators and attorneys who provided additional information in response to our information requests.

We must also acknowledge the assistance we have received over the years from National Center research interns including Amrika Ballyram, Charlie Spatz, Raabia Qasim, Michael Cardenas, Nicholas Brennan, Nalia Grube, Allison Stillerman, Joshua Greenfield, Liliya Perelman, Joshua Burton, Joel Goldenberg, Sarah Mathai, and Anna Xia.

Lastly, we recognize the extraordinary work of National Center administrator Michelle Savarese who has played a central role in the continued development and expansion of National Center services, programming, and other activities.

Glossary of Terms and Symbols

The following is a glossary of terms and symbols used in the analysis and tables of the *2020 Supplementary Directory*:

Bargaining Agent: A bargaining agent is a union or association certified by a government agency or recognized by an institution of higher education as the exclusive representative of all employees in a bargaining unit for purposes of collective bargaining. Table 1 sets forth a list of national and state affiliations, along with acronyms, for bargaining agents referenced in the tables, charts, and figures.

Bargaining Unit: A group of workers represented for purposes of collective bargaining with their employer, an institution of higher education. Bargaining unit composition is determined by the NLRB, a public sector labor relations agency, or through an agreement between a union and an employer.

Bargaining Unit Composition: Bargaining unit composition in higher education can vary widely from institution to institution and is subject to modification. Faculty can be in a single bargaining unit or divided into separate bargaining units at the same institution. Faculty can also be part of a combined unit with other job titles. In the same manner, non-instructional titles can be represented in separate bargaining units. To help avoid confusion, we have used abbreviated categories and symbols in charts and tables to describe and identify unit compositions, which we have supplemented with the full unit description for each unit:

- **Full-Time Non-Tenured or Non-Tenure Track (FT-NTT):** Faculty employed on a full-time basis who do not have tenure or the prospect of tenure.
- **Full-Time Tenured and Tenure Track (FT-TTT):** Faculty employed on a full-time basis who have tenure or the prospect of tenure.
- **Part-Time Non-Tenured or Non-Tenure Track (PT-NTT):** Faculty employed on a part-time basis who do not have tenure or the prospect of tenure.
- **Part-Time Tenured and Tenure Track (PT-TTT):** Faculty employed on a part-time basis who have tenure or the prospect of tenure.
- **Department Chairs and Administrators:** These are academic titles that are in combined units with faculty or in new separate units. We have used * to identify new bargaining units that include department chairs.

- **Librarians and Other Professional Titles:** Librarians, counselors, and other professional staff who may be in a new bargaining unit. We have used † to identify new bargaining units with librarians and ‡ to identify new bargaining units with other professional staff.
- **Postdoctoral Scholars and Academic Researchers:** Scholars and researchers with non-tenure track titles such as postdoctoral fellow, postdoctoral research scientists, postdoctoral research scholars, or academic researchers in a separate unit or in a combined unit with faculty. We have used § to identify units that include postdoctoral scholars and/or academic researchers. Table 4 includes data for separate bargaining units of postdoctoral scholars and academic researchers established before and after 2012.
- **Graduate Student Employees (GSE):** Graduate student employees with titles teaching assistants, research assistants, and graduate assistants who are in newly certified or recognized separate units or in combined units with undergraduate student employees. Table 5 lists the newly certified or recognized GSE bargaining units in 2013-2019.
- **Undergraduate Student Employees:** Undergraduate employees who are teaching or research assistants or perform other academic-related duties.

Bargaining Unit Size: The total number of employees in a bargaining unit at the time of certification or recognition. In calculating the size of a merged unit or a unit that expanded in 2013-2019 we relied on the original size listed in the *2012 Directory*. The unit sizes may have changed since the original certification or recognition.

Card Check: A non-electoral means for determining whether a majority of a bargaining unit wants a union to represent them for purposes of collective bargaining. The determination of majority status can be made based on signed dues deduction cards, petitions, or other forms of written evidence. A card check can lead to the certification by public sector labor relations agencies in some states or voluntary recognition pursuant to an agreement.

Certification or Recognition: A union can be certified by the National Labor Relations Board (NLRB) following a representation election or certified by a state labor relations agency following an election or a card check. An institution of higher education can also voluntarily recognize a bargaining agent following an election or a card check conducted by a neutral third party.

Collective Bargaining Agreement (CBA): A contract between an institutional employer and a union on behalf of a bargaining unit. Links to current collective bargaining agreements for new bargaining units are included in Tables 2-8, except for contracts that are unavailable.

Current Bargaining Agent: The year in which the current bargaining agent was elected or otherwise recognized as the representative of the bargaining unit.

Current CBA Expires: The year the current collective bargaining agreement expires.

Initial Agent Elected: The year the first bar- gaining agent was certified by an administrative agency or recognized as the exclusive representative of a bargaining unit. This may differ from the year that the current agent was elected because the bargaining agent could have changed since the initial agent was certified or recognized.

Initial CBA Ratified: The month and year the bargaining unit and/or the institution first ratified a collective bargaining agreement (CBA).

Institution: The name of the employing higher education institution or system with a certified or recognized collective bargaining agent representing a unit of faculty, department chairs, administrators, librarians, non- instructional professionals, postdoctoral scholars, and/or graduate student employees. We have used ^ to identify private non-profit and for-profit institutions, and Δ to identify institutions that have closed.

Union: The term for the local bargaining agent certified or recognized to represent a defined collective bargaining unit as well as the national and/ or state affiliation of the union.

Data Collection Methodology for 2020 Supplementary Directory

Below is a description of the methodology used to collect data about new bargaining units of faculty, administrators, post-doctoral scholars, graduate assistants and other student workers between 2013-2019. The same methodology was applied in gathering data about pre-2013 units omitted from the *2012 Directory*.

Beginning in 2014, the National Center began tracking each petition filed with the NLRB and similar public sector labor relations agencies seeking to represent a bargaining unit of faculty, administrators, post-doctoral scholars, and/or student workers. We also tracked unionization efforts involving alternative procedures leading to voluntary recognition and collective bargaining.

Data Sources

Data concerning the newly organized bargaining units since 2012 is based largely on primary source material including certifications and decisions by the NLRB and public sector agencies, responses to informal and formal freedom of information requests, voluntary recognition agreements, tallies of ballots, and the terms of subsequently negotiated contracts.

As part of our on-going research, we have followed the processing of each question of representation before the NLRB and state agencies from initial filings, to determinations of bargaining unit composition, to the results of an election, to the certification or recognition of a union, and finally the negotiation of a first and subsequent contracts. Many of these developments have been reported on by the National Center in previous *scholarship*² and in

our monthly electronic newsletter.

Beginning in 2014, the National Center developed a database that tracked close to 250 representation cases in higher education involving academic labor seeking certification or voluntary recognition from an institution of higher education. We gathered the data from government sources including federal and state websites and from the Westlaw database Labor & Employment Administrative Decisions & Guidance. Data was augmented by information received in response to informal and formal freedom of information requests to government agencies. For representation matters resolved through voluntary recognition, we relied on documents and information posted on university and union websites. We reached out directly to unions and higher education institutions to resolve gaps in our data and to verify information.

For the *2012 Supplementary Directory*, we chose to rely primarily on documentary sources rather than survey results for various reasons. First, the rapid growth in unionization efforts in higher education during the period, particularly among non-tenure track faculty and graduate student employees, made the use of a survey instrument ineffective and inefficient. Use of a survey instrument would not have allowed us to keep step with the rapid pace of formal organizing efforts during the course of our research. In addition, most labor organizing is conducted in a decentralized manner, with faculty and other employees working with organizers from national union locals and affiliates.

2 See, Herbert, W.A. (2016). The winds of changes shift: an analysis of recent growth in bargaining units and representation efforts in higher education, *Journal of Collective Bargaining in the Academy* Vol. 8(1) 1-24; <https://thekeep.eiu.edu/jcba/vol8/iss1/1/> Herbert, W.A.

& Apkarian, J.(2017). Everything passes, everything changes: Unionization and collective bargaining in higher education *LERA Perspectives on Work*, 21, 30-35; Herbert, W.A. & van der Naald, J. (2020). A different set of rules? NLRB proposed rule making and student worker unionization rights. *Journal of Collective Bargaining in the Academy* Vol. 11, 1-365. https://works.bepress.com/william_herbert/40/

Scope of the Data

The *2020 Supplementary Directory* includes all new bargaining relationships at institutions of higher education, where a union has been certified or recognized in the period 2013-2019 to represent a unit that includes faculty, department chairs, administrators, librarians, post-doctoral scholars, and/or graduate student employees for purposes of collective bargaining. These include new collective bargaining relationships that have resulted in first contracts or where the parties are still in negotiations. In addition, the *Supplementary Directory* sets forth data about bargaining units that existed prior to 2013 that did not appear in the *2012 Directory*. Lastly, the *Supplementary Directory* includes data about bargaining units which were modified through accretions, fragmented, merged, decertified or disaffiliated since 2012.

Bargaining unit composition can vary from institution to institution, with some institutions having multiple academic units represented by the same or different union. Unit composition can differ based on faculty status or the inclusion of other professional titles in the bargaining unit. The wide variations in unit composition reflect different legal standards under federal and state collective bargaining laws as well as the preferences of the at-issue employees, unions, and institutions. Due to these wide variations, the *Supplementary Directory* includes full unit descriptions that lists the specific titles included and excluded for each bargaining unit.

Table 2 lists all new faculty units at private non-profit and public higher education institutions in 2013-2019 that include full-time and/or part-time tenured and tenure track faculty, full-time and/or part-time non-tenure track faculty. The phrase non-tenure track faculty represents all types of instructional staff in higher education who do not have tenure or do not hold a tenure-track appointment. We have utilized symbols to identify units that are at private sector institutions, and units that include department chairs, postdoctoral scholars, librarians, other non-instructional professionals. Table 2 also lists the small number of new

separate bargaining units for department chairs and administrators in higher education. Table 2A includes the specific composition of each new unit of faculty, department chairs, and administrators.

Table 3 lists a similarly small number of newly certified faculty units at private for-profit institutions. The specific composition of each new faculty bargaining unit at private for-profit institutions are listed in Table 3A.

Table 4 includes data about all existing post-doctoral collective bargaining relationships, and one new academic researcher unit. It includes data concerning units created before and after 2012 because they were omitted from the *2012 Directory*. The specific composition of each unit included in Table 4 is listed in Table 4A.

New graduate student employee units since 2012, including some with under-graduate student employees, at public and private non-profit institutions are listed in Table 5. The specific composition of each graduate student employee unit listed in Table 5 is included in Table 5A. Table 6 lists pre-2013 units omitted from the *2012 Directory* and Table 6A includes the unit composition for each of those units.

Table 7 identifies changes to pre-2013 units. Tables 8 and 8A list units that were merged, accreted, clarified, or fragmented, and the composition of each of those units.

In determining the size of a new bargaining unit, we have relied on the number of bargaining unit members eligible to vote in the representation election or the unit size used in determining majority status in a card check. In calculating faculty unionization growth during the period under study, we have used the full size of each unit, some of which included other titles. For determining the size of merged units and units that expanded between 2013-2019, we have relied on the *2012 Directory* for the pre-2013 unit size.

We recognize that unit sizes and compositions change over time and the severe economic fallout from the COVID-19 pandemic is likely to impact both. In addition, collective bargaining relationships can change due to institutional closures or mergers, decertifications or disaffiliations, or the refusal of an institution to continue to recognize a union. It is our intention to capture changes in all units listed in the *2012 Directory* and the *2020 Supplementary Directory* in the next full directory incarnation.

By its very nature, the *2020 Supplementary Directory* reports only on unionization efforts that led to collective bargaining. It does not include data concerning representation petitions withdrawn before or after certification or unsuccessful unionization efforts during the period, such as petitions dismissed or withdrawn following a vote against representation, or any new meet and confer relationships in higher education. Data compiled during the period concerning unsuccessful unionization efforts will be the subject of future National Center scholarship.

Summary of 2020 Findings

Our summary of the increase in unionization in higher education in 2013-2019 is divided into five sections. The first section examines the growth in faculty bargaining units and organized faculty during the period. The second, third, and fourth sections examine unionization of separate units of chairpersons and administrators, postdoctoral scholars and academic researchers, and graduate student employees, respectively.

The summary begins with an analysis of the growth in faculty unionization during the period under study as this has been the primary focus of earlier directories.

I. Faculty Unionization Growth: 2013-2019

From January 1, 2013 to December 31, 2019 there were a total of 118 newly certified or recognized faculty collective bargaining units in the United

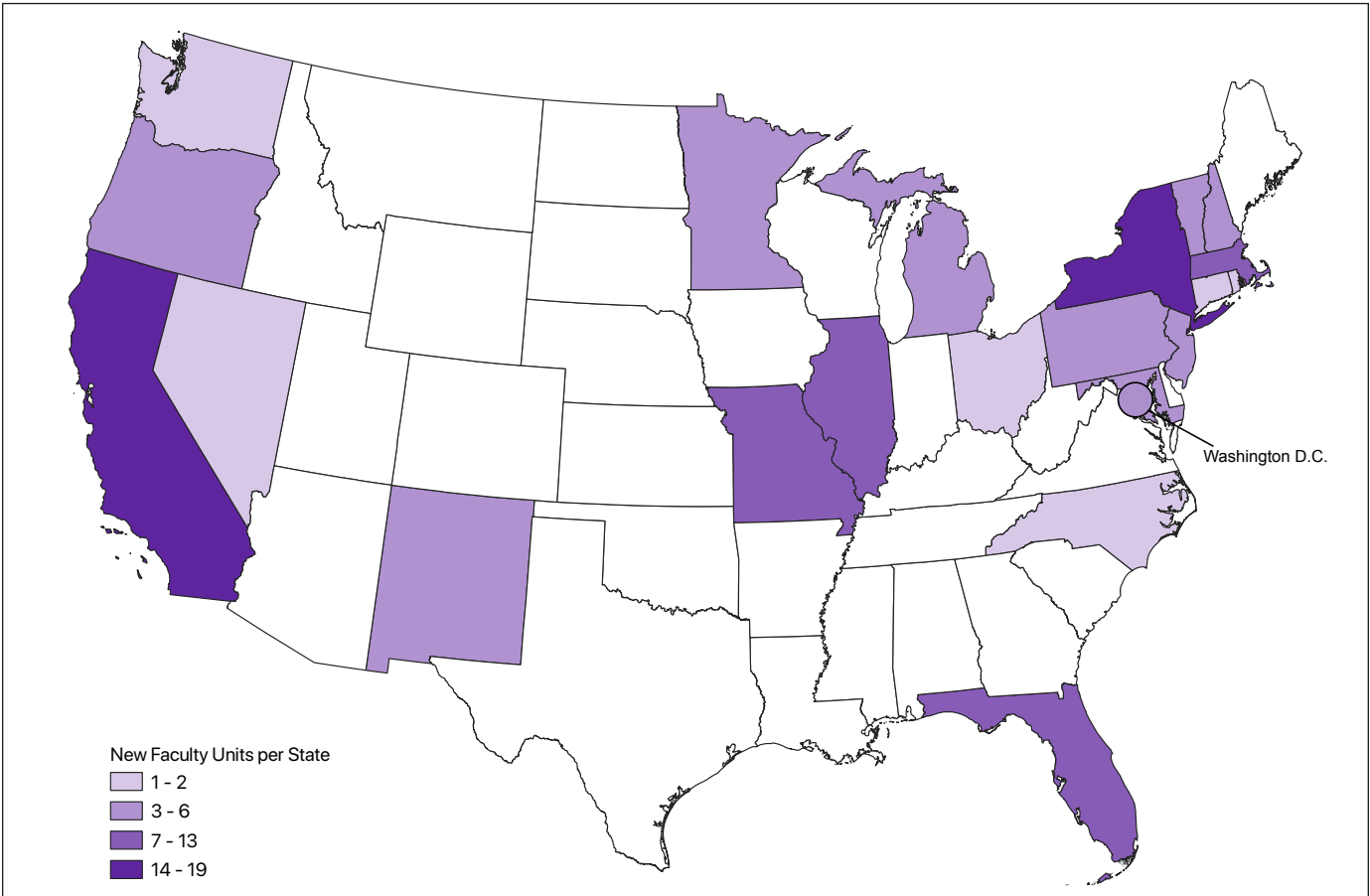
States with a total of 36,264 unit members. There were 65 new units at private non-profit institutions, 50 at public colleges and universities, and 3 at private for-profit institutions.

The composition of some new faculty units includes other professional titles. 9.3% (11) of the new faculty units included librarians, 3.3% (4) had department chairs and 2.5% (3) had postdoctoral scholars.

The 118 new bargaining units included 20,160 newly represented faculty (and other professionals) at public sector 4-year and 2-year institutions, 15,898 at private non-profit institutions, and 206 at for-profit private institutions.

In calculating these figures, we did not include data concerning faculty bargaining units that were in existence prior to 2013 but did not appear in the *2012 Directory* nor pre-existing bargaining units

Chart 1. Map of New Faculty Unit Growth in the United States: 2013-2019



that expanded in size through accretion or shrunk through fragmentation.

Our analysis also excludes data relating to certifications of bargaining agents in 2013-2019 that were successfully challenged,³ as well as data for five faculty bargaining units certified during the period that no longer existed as of December 31, 2019 due to institutional closures, in whole or in part.⁴ In Table 7, we identify six faculty units listed in the 2012 Directory that disbanded, one following the decertification of the bargaining agent, and five due to the closure of the institution.

Chart 1 is a geographic display of all new faculty unit activity at public and private non-profit institutions across the nation during the period 2013-2019. Darker shades indicate a greater number of new units over the period. Twenty-one states and the District of Columbia had at least one new faculty unit during the period. California (19) and New York (17) had the most newly organized faculty units followed by Florida (13), and Massachusetts (11).

A. Faculty Unionization Growth at Private Non-Profit Institutions

The most significant development in the period 2013-2019 was the massive increase in faculty unionization at private sector institutions. The

2012 Directory identified 77⁵ private sector non-profit faculty bargaining units with a total of 23,711 unit members. In addition, we have identified six private non-profit faculty units in Table 6 omitted from the 2012 Directory that have a combined unit membership of 2,442.⁶

Over the next seven-year period, there were 65 new faculty bargaining units certified or recognized at private non-profit institutions with a total of 15,898 bargaining unit members. With one exception, all of the 65 units were at 4-year private non-profit institutions with 13 schools having more than one new bargaining unit.⁷ Close to 17% (11) of the new bargaining units were at religiously affiliated institutions, which did not dispute, or were unsuccessful in challenging, the NLRB's assertion of jurisdiction over representation of faculty based on the Supreme Court's 1979 decision in *NLRB v. Catholic Bishop of Chicago*.⁸

Overall, there was an 81.3% increase in the number of faculty bargaining units at private sector non-profit institutions since 2012 and an 61.0% increase in the number of represented faculty at those institutions.

Twelve states and the District of Columbia had at least one new faculty unit during the period with

3 See, *Duquesne University of the Holy Spirit v. NLRB*, 947 F.3d 824 rehearing en banc den. F.3d (D.C. Cir. 2020)(court granted the university's challenge to the NLRB's certification of a union to represent adjunct faculty on the grounds that the agency applied an improper standard for asserting jurisdiction over a religiously-affiliated university, and remanded the case to the agency); *University of Southern California v. NLRB*, 918 F.3d 126 (D.C. Cir., 2019)(court upheld a challenge to the certification of a bargaining agent to represent a NTT faculty unit on the ground that the agency applied the wrong standard for determining whether the faculty were managerial; *Elon University*, NLRB Case No. 10-RC-231745 (The NLRB is considering the university's challenge to a finding that limited term visiting and part-time faculty are not managerial employees).

4 Two newly certified units at Burlington College (part-time adjunct faculty) and Webster University (adjunct faculty and free-lance musicians who performed for Webster University Symphony Orchestra) and three newly certified units at for-profit institutions: Corinthian Colleges, Culinary Academy of New York and Micropower Career Institute.

5 This figure is based on the number of private sector bargaining units identified in Table 2 of the 2012 Directory.

6 The bargaining units are at American University, Manhattanville College, Saint Francis College, and the CUNY and SUNY Research Foundations. We have not counted the faculty in the orchestra unit at Webster University because it has since closed.

7 Culinary Institute of America at Greystone is a two-year institution. The following four-year non-profit institutions have multiple units: Boston University, College of Saint Rose, Howard University, Ithaca College, Lesley University, Loyola University Chicago, Minneapolis College of Art and Design, Northeastern University, Notre Dame de Namur, Point Park University, Tufts University, Siena College, and University of Chicago. 440 U.S. 490 (1979). The 2012 Directory omitted two pre-2013 faculty bargaining units at institutions with religious affiliations: Saint Francis College and Manhattanville College. An analysis of the use of jurisdictional objections by religiously-affiliated institution be found in Herbert, W.A. & van der Naald, J. (2018, September) NLRB jurisdiction and religiously-affiliated institutions, 2006-2018, National Center E-Note, Retrieved from <https://myemail.constantcontact.com/September-2018-E-Note--News--Updates--and--and-Analysis.html?soid=1102372137664&aid=3mLriBkuAjo>

California (17), New York (12) and Massachusetts (11) having the most. The NTT unit at Duke University was the first private sector faculty unit in a right-to-work state since 1992.

The data demonstrates a major shift in faculty representation at private colleges and universities. The shift is attributable to a number of factors including: the rising demand by contingent faculty for union representation to improve their working conditions; a refocusing of labor union priorities toward the needs of precarious faculty; a more friendly legal environment toward labor rights at the NLRB during the Obama Administration; and a less adversarial response to faculty unionization by some higher education institutions.

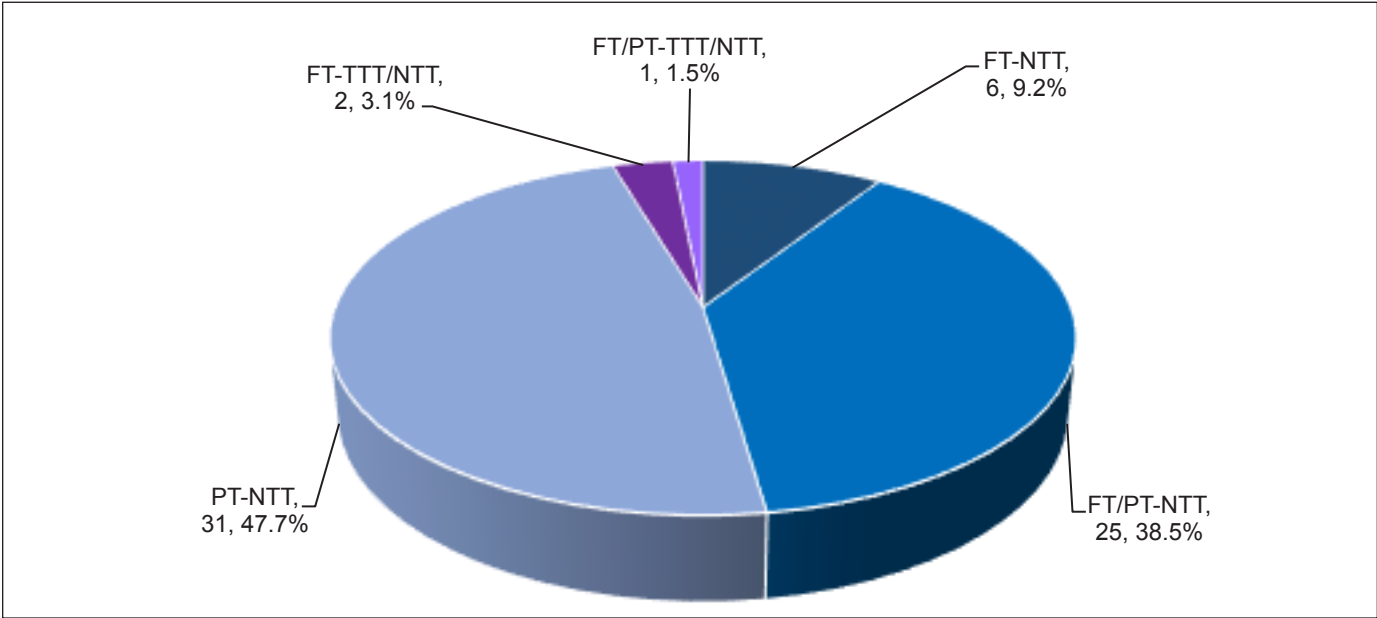
An unintended consequence of the significant increase in contingent faculty over the past four decades has been that the adverse impact of the United States Supreme Court decision in *Yeshiva University v. NLRB*⁹ has lessened concerning

faculty unionization on private sector campuses Under the *Yeshiva* decision, TTT faculty involved in shared governance are managerial and are unprotected under the National Labor Relations Act. The low wages, limited benefits, marginalization, and precarious employment status of contingent faculty make

it difficult for institutions to successfully argue that those faculty are managerial under *Yeshiva*.¹⁰

The breakdown of the new faculty units from 2013-2019 at private non-profit schools in Chart 2 reveals that 95.4% of the new units include only NTT faculty, with 47.7% (31) limited to PT-NTT faculty and 38.5% (25) with both PT-NTT and FT-NTT. Of the 65 new bargaining units, only three include TTT faculty.¹¹ The fact that there were no newly certified units limited to TTT faculty demonstrates the continued potency of the *Yeshiva* decision even after the NLRB in 2014 modified the standards for determining

Chart 2. New Faculty Units by Type at Private Not-for-Profit Institutions, 2013-2019

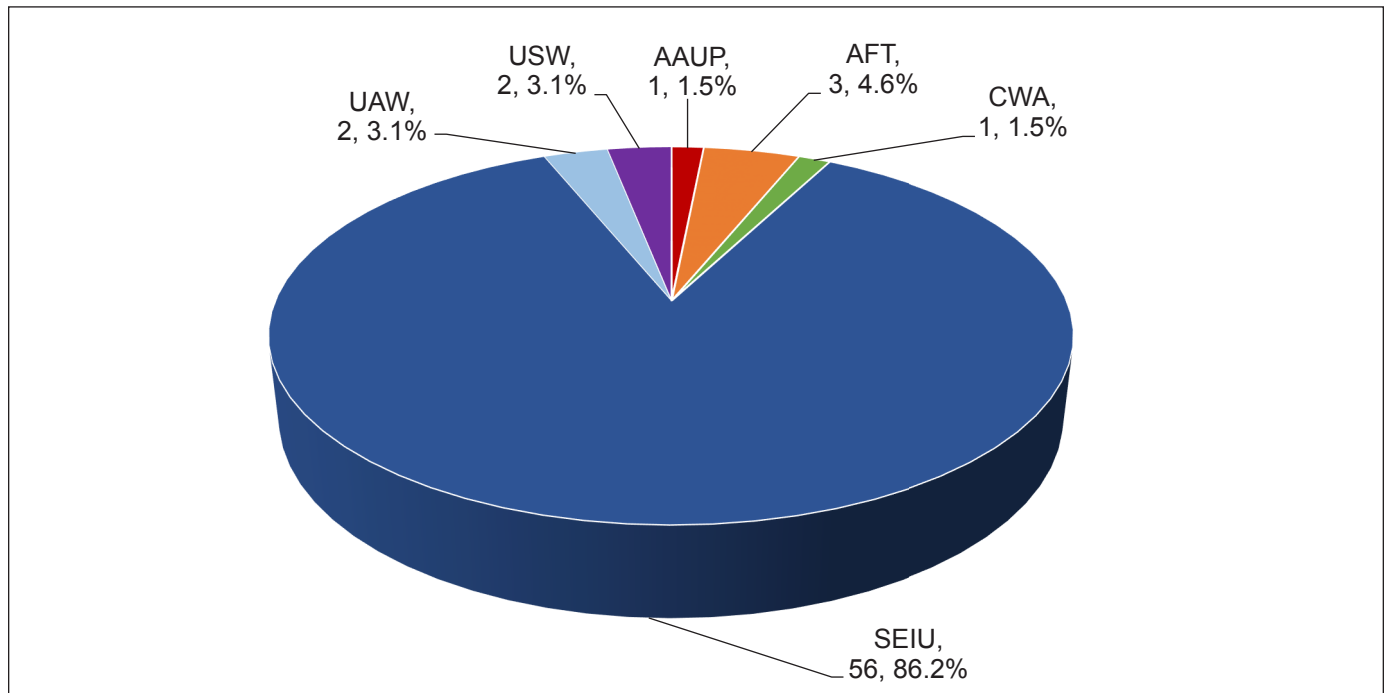


9 444 U.S. 672 (1980). During the period under study, the following religiously-affiliated institutions raised objections to the NLRB asserting jurisdiction over a faculty representation petition based on the *Catholic Bishop* decision and its progeny: *Manhattan College*, *Pacific Lutheran University*, *Seattle University*, *Carroll College*, *Duquesne University*, *Loyola University Chicago*, *Marywood University*, and *Saint Xavier University*.

10 Nevertheless, some institutions have argued that contingent faculty with shared governance responsibilities are managerial for purposes of the National Labor Relations Act. See, *Pacific Lutheran University*, 361 NLRB 1404 (2014); *University of Southern California v. NLRB*, 918 F.3d 126 (D.C. Cir., 2019); *Elon University*, NLRB Case No. 10-RC-231745.

11 The three units with TTT faculty are at Lesley University, Notre Dame de Namur, and Point Park University.

Chart 3. New Faculty Units by National Affiliation at Private Non-Profit Institutions, 2013-2019



whether faculty are managerial.¹²

Another major development in the past seven years was the shift in the national affiliations of bargaining agents representing the new private sector faculty bargaining units.

The *2012 Directory*, as supplemented by Addendum I (Table 6), demonstrates that prior to 2013, close to 90% of private sector bargaining agents were affiliated with the traditional national academic higher education unions, separately or jointly: AAUP, AFT, and NEA. At that time, the UAW represented three private sector faculty bargaining units, and SEIU represented only two,

one at George Washington University and the other at American University.¹³

In the period 2013-2019, SEIU became the predominant national union representing new private sector faculty bargaining units. As Chart 3 demonstrates 86.2% (56) of the new bargaining units at private non-profit institutions are affiliated with SEIU. The remaining nine new units at private non-profit institutions are split among five other national unions: AFT (3), UAW (2), USW (2), AAUP (1), and CWA (1).

Similarly, there has been a major shift in the distribution of organized faculty at private institutions by national union affiliation over the seven-year period. In 2012, AAUP, AFT, and NEA, separately and jointly, represented a majority of organized faculty at private institutions. In contrast, as Chart 4 establishes, SEIU represents 90.3% (14,359) of the faculty in the new private sector non-profit bargaining units certified or recognized in 2013-2019.

12 See, *Pacific Lutheran University*, 361 NLRB 1404 (2014). During the period 2013-2019, three representation efforts seeking certification of TTT faculty bargaining units at private sector institutions were dismissed with findings that the faculty were managerial: *Carroll College*, NLRB Case No. 19-RC-165133; *Trustees of Tufts College*, NLRB Case No. 01-RC-166588; and *Marywood University*, NLRB Case No. 04-RC-173160.

13 The SEIU-represented faculty bargaining unit at American University was omitted from the *2012 Directory*. See, Addendum (Table 6).

Chart 4. Newly Represented Faculty at Private Non-Profit Institutions by National Affiliation and Unit Type, 2013-2019

	NTT	TTT	NTT/ TTT	Total
SEIU	14,139	0	220	14,359
USW	764	0	0	764
AFT	348	0	0	348
UAW	334	0	0	334
CWA	0	0	67	67
AAUP	26	0	0	26
Total	15,611	0	220	15,898

B. Faculty Unionization Growth at For-Profit Institutions

Faculty bargaining unit growth in the for-profit sector was negligible in 2013-2019. In Table 3, we identify six newly certified faculty bargaining units in the for-profit sector, all of which included FT-PT-NTT faculty and are relatively small. The newly certified units are in three states: New York (4), California (1) and Illinois (1). However, 50% (3) of the new units were no longer in existence by the end of 2019 due to closures. As a result, there was a total growth of three new for-profit units during the period with a total of 206 newly organized faculty.

C. Faculty Unionization Growth at Public Institutions

The growth in faculty unionization in 2013-2019 at public sector 4-year and 2-year institutions has not been as substantial as the growth at private non-profit institutions. This is due to the scope of union density among faculty at public institutions prior to 2013. According to the *2012 Directory* and the Addendum in Table 6, there were 565 public sector faculty bargaining units with a total of 348,250 unit members prior to 2013.

During the subsequent seven-year period, there were 50 new certified or recognized faculty bargaining units at public colleges and universities

with a total of 20,160 bargaining unit members. This constitutes only an 8.8% growth in new public sector new faculty units since 2012 and a 5.8% growth in the total number of organized public-sector faculty.

Of the 50 new bargaining units at public institutions, 54% (27) were at 4-year institutions and 46% (23) were at 2-year institutions. The percentage disparity was greater in the number of organized faculty with 70.3% (14,175) at 4-year institutions, and 29.7% (5,985) at 2-year institutions.

The breakdown in Chart 5 of public sector growth by unit types demonstrates significant differences from the growth in the private non-profit sector. At public institutions, 52% (26) of the new units include only NTT faculty, with 42% (21) limited to PT-NTT faculty, 8% (4) with FT-NTT faculty and 2% (1) of the units with both PT-NTT and FT-NTT faculty. In comparison, over 95% of the new private non-profit sector units had only NTT faculty, with 46.2% limited to PT-NTT faculty and 40% with both PT-NTT and FT-NTT faculty.

The growth in public sector TTT faculty bargaining units is another major difference with the private non-profit sector. The difference reflects a distinct public sector legal terrain that largely lacks *Yeshiva*-like restrictions on TTT faculty unionization. In the public sector, 32% (16) of the new units were limited to FT-TTT faculty and 2% (1) had FT-TTT and PT-TTT faculty. An additional 14% (7) of the new units included TTT and NTT faculty.

Unlike the private sector, AAUP, AFT, and NEA continued to drive the growth of new public sector bargaining units over the seven-year period. As Chart 6 demonstrates, 72% (36) of the new public sector faculty units were affiliated separately or jointly with the three traditional academic unions.

The breakdown of the numbers of newly represented public sector faculty tells a slightly different story (see Chart 7). The three traditional unions represent 53% (10,632) and SEIU represents 46% (9,347) of the total number of newly organized public-sector faculty.

Chart 5. New Faculty Units by Type at Public Institutions, 2013-2019

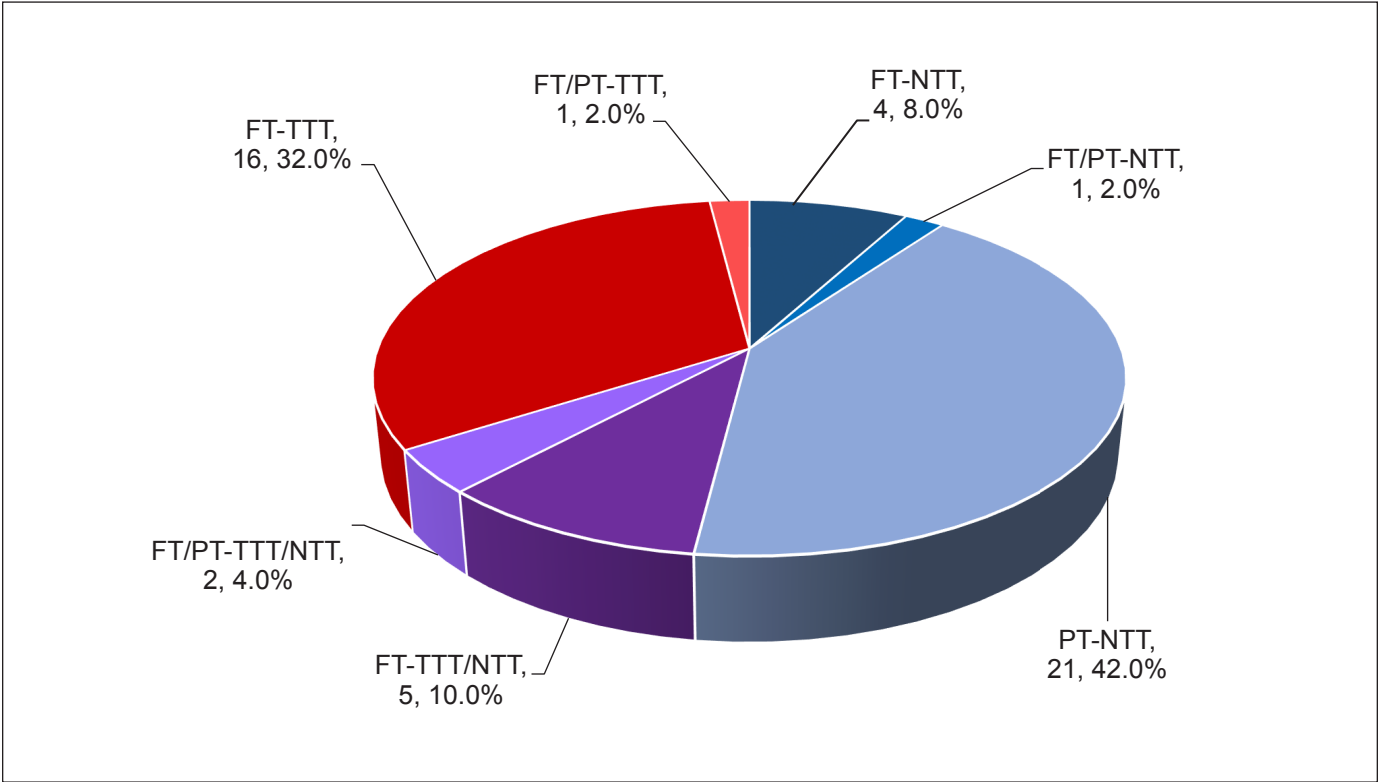


Chart 6. New Faculty Units by National Affiliation at Public Institutions, 2013-2019

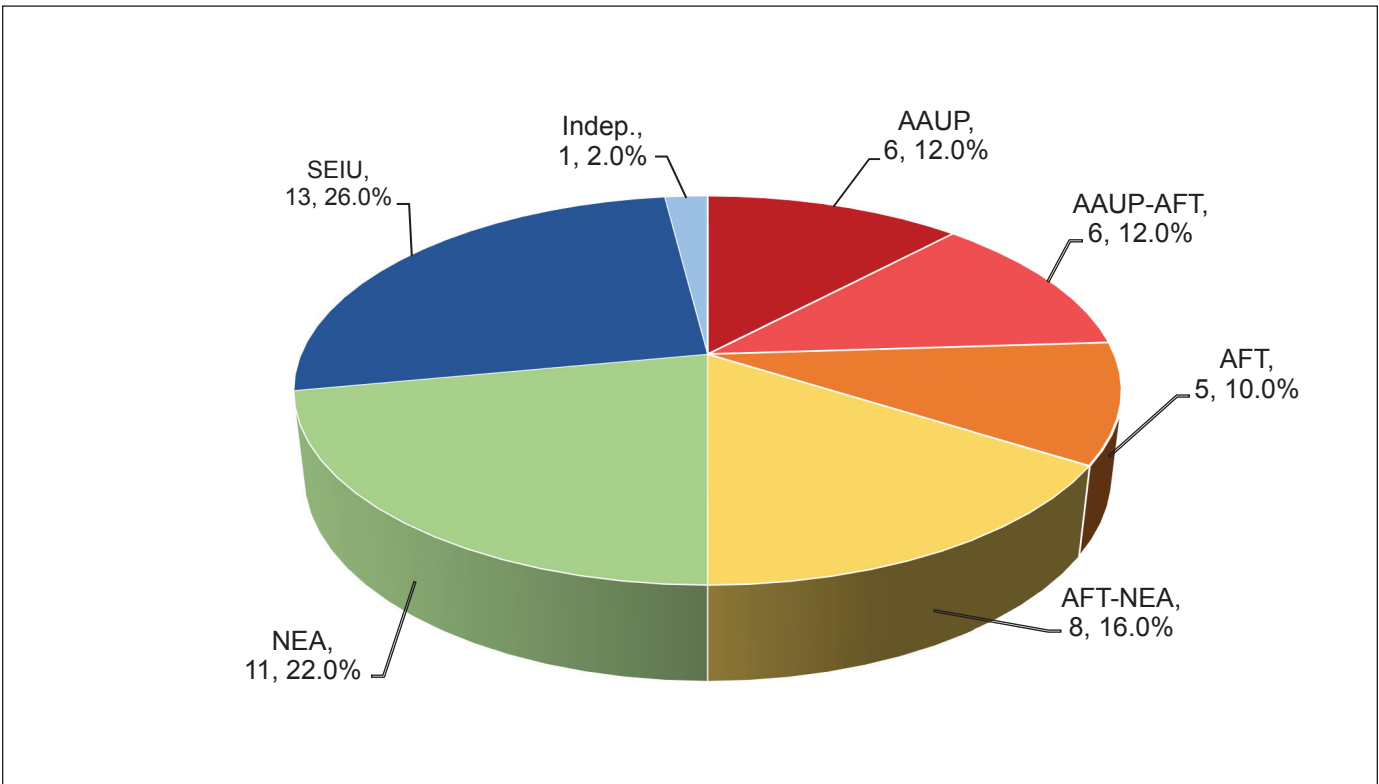


Chart 7. Newly Represented Faculty at Public Institutions by National Affiliation and Unit Types, 2013-2019

	NTT	TTT	NTT/ TTT	Total
SEIU	9,347	0	0	9,347
AAUP-AFT	1,332	590	3417	5,339
NEA	751	799	197	1,747
AFT	1,169	138	0	1,307
AAUP	203	780	172	1,155
AFT-NEA	374	628	82	1,084
Independent	0	0	181	181
Total	13,176	3017	3,967	20,160

D. Total Faculty Unionization Growth Per Annum Since 2012

Chart 8 presents the growth in the total number of unionized faculty in all sectors between 2013-2019, as well as the growth per annum.¹⁴

As Chart 8 demonstrates, the growth over the period was linear with an average increase of 5,490 newly unionized faculty each year. This amounts to about 1.5% growth in newly unionized faculty per year over the period.

Total growth is inclusive of both newly certified faculty bargaining units as well as the loss of bargaining units between 2013-2019.¹⁵

14 In calculating the total growth, we began with the total number of unionized faculty as estimated in the *2012 Directory* (368,473). We added to that figure unionized faculty in units certified or recognized between 2004-2012 that were not included in the *2012 Directory* (see Table 6). We calculated per annum growth in 2013-2019 by summing the sizes of all new faculty units in each year, while total growth is a cumulative measure of these yearly growth figures. We then subtracted from the total growth value in each year the size of decertified units, disbanded units following school closures, and units that have had titles removed, listed in Tables 7 and 8. In subtracting members removed from units certified before 2013, we rely on the unit sizes listed in the *2012 Directory*.

15 The number of faculty in decertified or disbanded bargaining units that have been subtracted from the annual growth are based on the unit sizes set forth in the *2012 Directory*.

I. Chairperson and Administrator Unionization Growth: 2013-2019

In the period 2013-2019, there were four newly certified department chair bargaining units at public sector institutions with a total of 61 unit members. During this period, there were two additional newly certified public sector bargaining units of administrators, with a total of 103 unit members.

At Temple University, 70 department chairs were removed from a long-established public sector faculty unit after an administrative ruling that determined department chairs are managerial or supervisory based on their duties, and therefore did not have the right to union representation.¹⁶

The miniscule growth in the unionization of department chairs and administrators is attributable to the exclusion of managers and supervisors from coverage under the National Labor Relations Act and some state collective bargaining laws.

II. Postdoctoral Scholars and Academic Researcher Unionization

The *2012 Directory* did not include data and analysis concerning the unionization of postdoctoral scholars and academic researchers in higher education. Our research establishes that there are now over 14,000 organized postdoctoral scholars and academic researchers in bargaining units at six public sector institutions and six private non-profit institutions.

In Table 4, we identify six current distinct postdoctoral scholar bargaining units with a total of 9,971 unit members, and a seventh unit of 4,110 academic researchers at the University of California. Three of these bargaining units existed prior to 2012,¹⁷ and four were certified or recognized in the subsequent seven years. In addition, Tables 2 and 4 list four new faculty units with postdoctoral scholars included.¹⁸

16 *Employes of Temple University*, 46 PPER ¶¶93 (Pa. Lab. Rel Bd, 2015).

17 At the time the UAW was certified to represent a postdoctoral unit at the University of Massachusetts-Amherst in February 2010, it was also certified to represent postdoctoral units at the University of Massachusetts-Boston and the University of Massachusetts-Dartmouth. However, it appears that the bargaining units on those two campuses disbanded following the certifications.

18 Most recently, a 2020 administrative decision added postdoctoral scholars to a pre-existing faculty bargaining unit at the New College of Florida. See, *New College of Florida*, 46 FPER ¶¶245 (Fl. Pub. Rel. Com. 2020).

The UAW is the dominant national union in the representation of postdoctoral scholars and academic researchers. Nationwide, the UAW represents 13,812 postdoctoral scholars and academic researchers in six new bargaining units. AAUP-AFT represents one postdoctoral scholar unit at Rutgers University. Of the four new faculty units with postdoctoral scholars, SEIU represents one at Fordham University and another at Goucher College, while AAUP-AFT represents units at the University of Oregon and Oregon State University.

III. Graduate Student Employee Unionization Growth: 2013-2019

From January 1, 2013 to December 31, 2019, there were 16 newly certified or recognized graduate student employee (GSE) collective bargaining units in the United States with a total of 19,627 unit members. Three quarters of the new units (12) were exclusively graduate student employees and four units included both graduate and undergraduate student employees including the library unit at the University of Chicago.¹⁹ Prior to 2013, there was a total of 61,830 employees

19 The University of Chicago library unit is the only GSE unit in our database that does not include teaching assistants, research assistants, or graduate assistants. In calculating growth in organized student employees in 2013-2019, we have not included the employees in the student dining employee unit at Grinnell College, NLRB Case No.18-RC-174071.

in GSE bargaining units.²⁰ Since 2012, there has been a 31% increase in represented graduate student employees.

The largest growth in new GSE bargaining units since 2012 was at private non-profit institutions, which is largely attributable to the NLRB's 2016 decision in *Columbia University* restoring collective bargaining rights to student employees.²¹ By the end of 2019, there were 11 private sector GSE bargaining units with 15,602 unit members, while in 2012 there were no organized GSE units in the private sector. In calculating these figures, we did not include data concerning GSE representation petitions that were withdrawn following the certification of a bargaining agent by the NLRB. In comparison, 31.3% (5) of the 16 new GSE units were at public institutions with a total of 4,025 newly organized graduate student employees.

Chart 9 displays the number of newly organized student employees by unit type at private

20 Although the 2012 *Directory* stated that there was a total of 64,424 organized GSE it excluded existing GSE bargaining units and included the GSE bargaining unit at the University of Madison-Wisconsin, which had disbanded.

21 364 NLRB No. 90 (2016). More recently, the NLRB has proposed a rule that would exclude all student employees from the rights granted under the National Labor Relations Act. See, Herbert, William A. and Joseph van der Naald, A Different Set of Rules? NLRB Proposed Rule Making and Student Worker Unionization Rights, *Journal of Collective Bargaining in the Academy* Vol. 11 (2020) pp. 1 - 35

Chart 8. Annual and Total Growth in Unionized Faculty 2013-2019

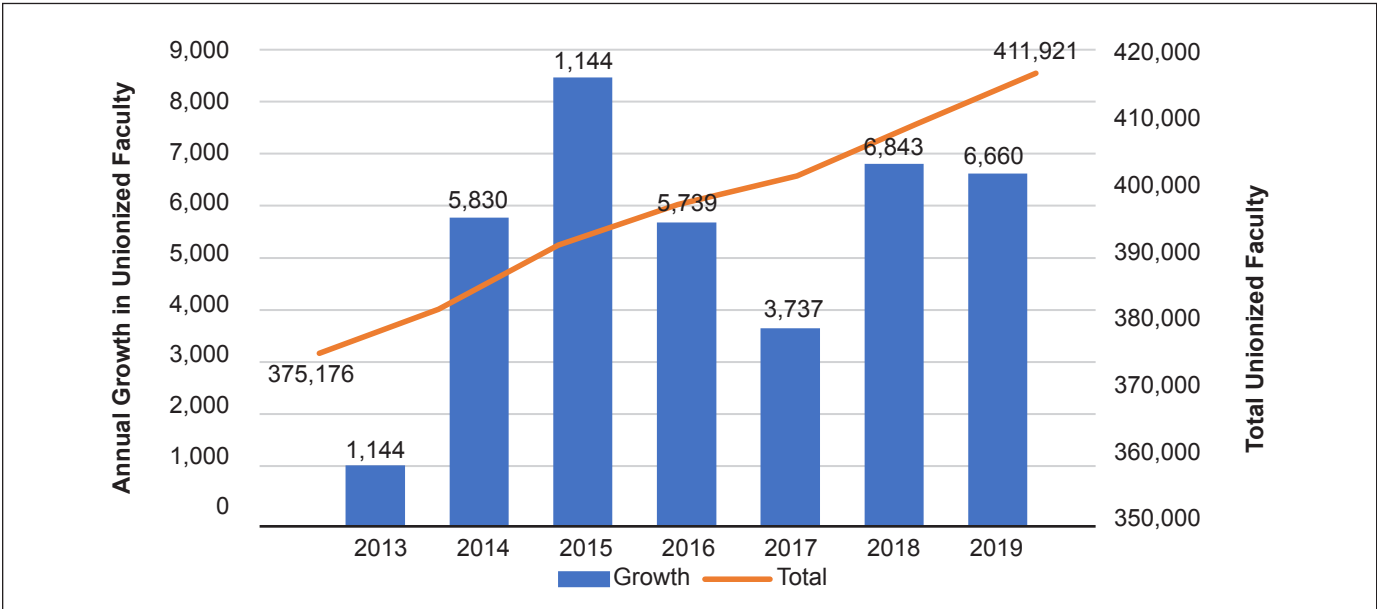
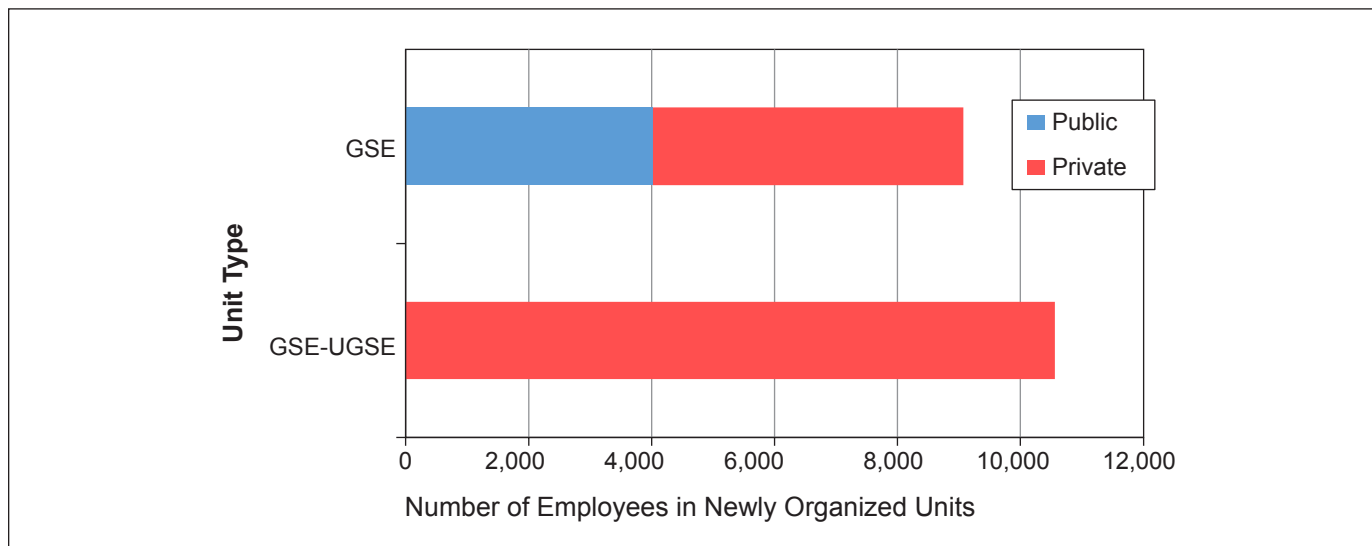


Chart 9. Newly Organized Student Employees by Unit Type, 2013-2019



non-profit institutions and public institutions. Though almost one-third of the new GSEs units were at public institutions, only 20% of the total number of newly organized GSE were at public institutions. These figures do not reflect the accretion of 767 employees in the GSE bargaining unit at Oregon State University, listed in Table 8.

The breakdown of national affiliations in Chart 10 of the new GSE bargaining units demonstrates a domination by non-traditional education unions: SEIU 37.5% (6), UAW 31.3% (5), AFT 12.5% (2), AAUP-AFT 6.3% (1), AFSCME 6.3% (1) and IBT 6.3% (1).

Although SEIU organized the largest number of GSE units, Chart 11 shows that the UAW represents the vast majority of the newly organized student employees (13,780 or 70.2%). This is due to the large unit sizes at Harvard, Columbia, NYU, and the New School, three of which also include undergraduate student employees. In comparison, AFT represents 11.8%, and SEIU represents 11.7% of the total number of newly organized student employees. Notably, the pre-2013 distribution of national affiliations of organized graduate student employees was somewhat different with UAW representing 43%, AFT representing 26% and SEIU not representing any (See *2012 Directory*, page xiii).

Chart 10. New Student Employee Units by National Affiliation, 2013-2019

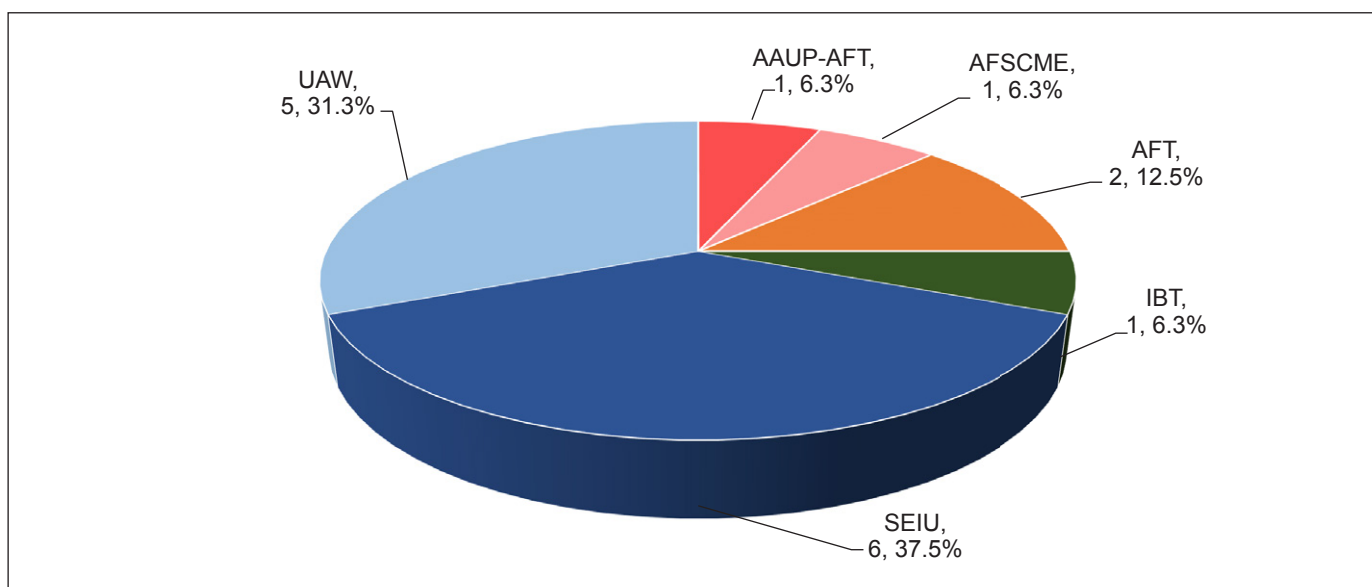


Chart 11. Newly Represented Employees in Graduate Student Employee Units by National Affiliation, 2013-2019 by National Affiliation, 2013-2019

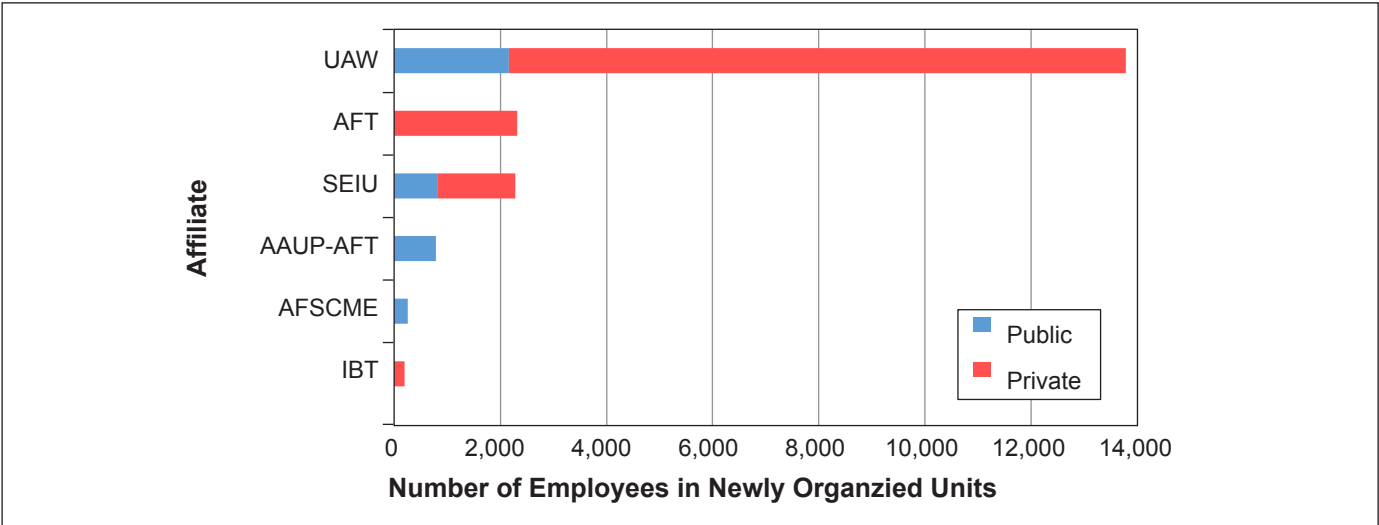


Chart 12 displays the breakdown of newly certified student employee units by state. Eight states had at least one newly organized student unit between 2013 and 2019. Illinois had the largest growth in units over the period (4) followed by Massachusetts and New York (3 each). Two of the four new units in Illinois were at public institutions and two were at private not-for-profit schools. All six units in Massachusetts and New York were at private not-for-profit institutions.

In Chart 13 we display the aggregate number of newly organized student employees at both public and private not-for-profit universities. While Illinois

was the state with the greatest number of newly organized student employee units, five other states had a greater number of newly organized student employees. New York (6,565 or 33.3%) and Massachusetts (5,550 or 28.1%) had the greatest number of newly organized student employees, but again, this was mainly due to the large units at Columbia and Harvard.

Finally, Chart 14 presents the growth in the total number of unionized student employees in the period 2013-2019 as well as the growth per annum. We calculated the total and annual growth in unionized student employees in the same

Chart 12. New Student Employee Units by State, 2013-2019

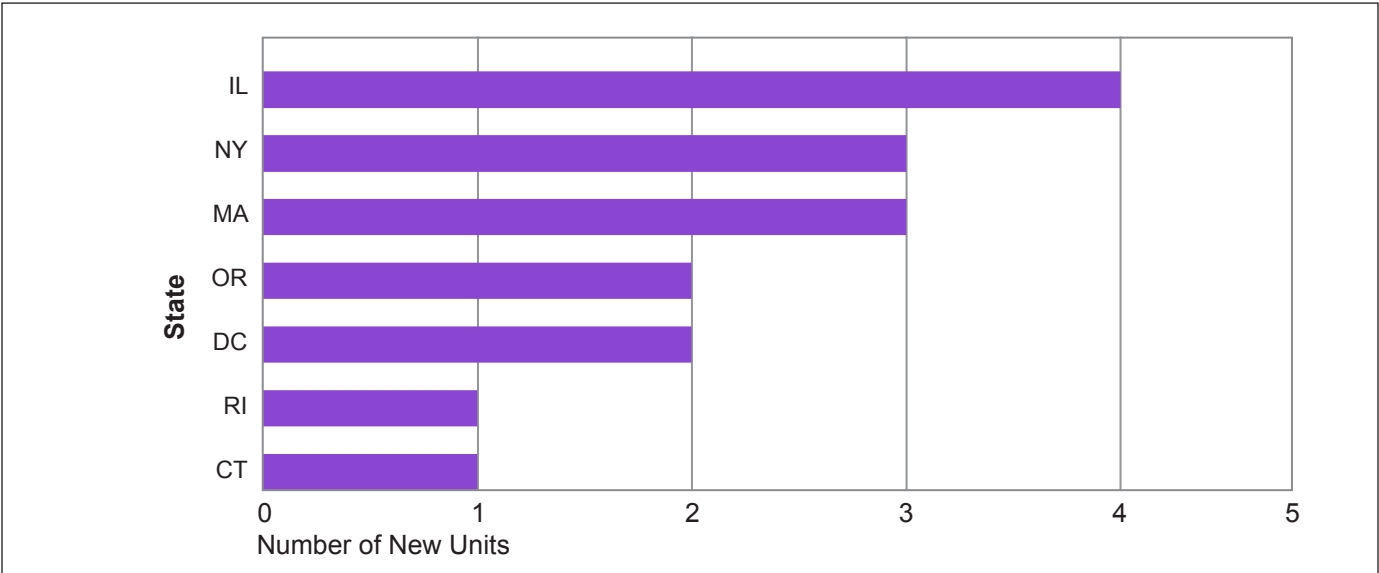
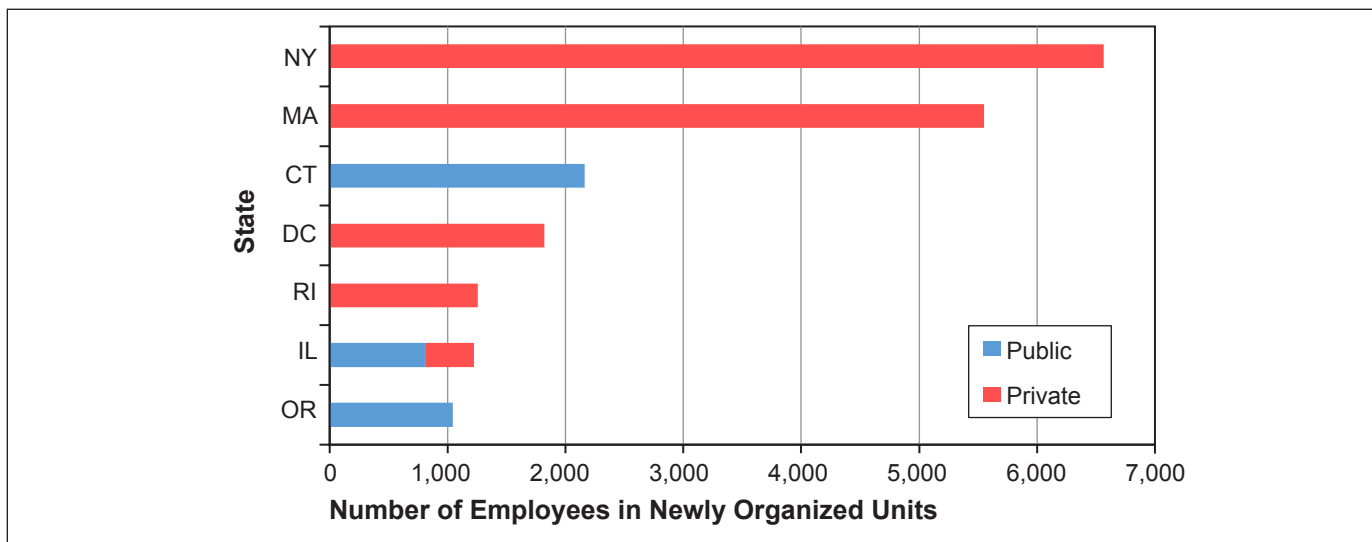


Chart 13. Newly Represented Student Employees by State, 2013-2019



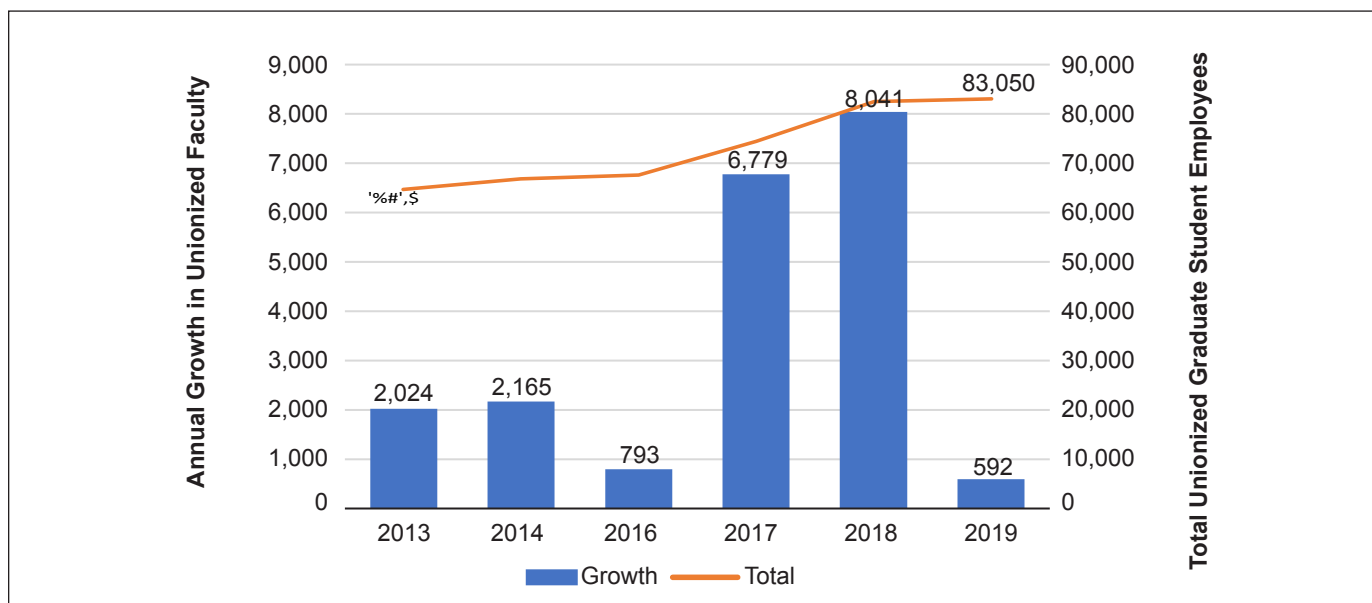
manner as unionized faculty growth was calculated above (see Chart 8).²² The majority of the growth (72.6 %) occurred in 2017 and 2018 following the NLRB's Columbia University decision.

Following passage of Wisconsin Act 10. Therefore, in calculating the number of total graduate student employees prior to 2013, we subtracted from the 2012 Directory total the size

22 The total estimated number of unionized graduate student employees in the 2012 Directory (64,424) included the bargaining unit at the University of Wisconsin–Madison. However, that GSE unit chose not to recertify in 2011

of the University of Wisconsin- Madison unit (3,131) to derive an estimate of 61,293. We then added to this estimate the unit sizes of graduate student units certified before and during 2012 which were excluded from the 2012 Directory. These include units at Montana State University (587), SUNY Research Foundation at Stony Brook University (714) and the three units at the Research Foundation of CUNY: CUNY Graduate Center (55), LaGuardia Community College (5) and New York City College of Technology (2) The total base estimate for organized graduate student employees is estimate of 62,656 unionized graduate student employees prior to 2013.

Chart 14. Annual and Total Growth in Unionized Student Employees, 2013-2019



Closing Remarks

The period 2013-2019 saw extensive growth in collective bargaining relationships in higher education, particularly among contingent faculty, postdoctoral scholars, and graduate student employees. The increases are attributable to a number of factors including the growing reliance on precarious instructional and research staff in higher education, new campus organizing campaigns supported by national unions, and changes in the law.

As we have shown, the 2016 restoration of labor rights for graduate assistants working on private sector campuses led to a substantial increase in GSE bargaining units. Currently, the NLRB is considering a proposed rule to overturn that precedent. The final adoption of the rule would

provide private institutions with a legal justification for refusing to continue to recognize GSE unions after the expiration of contracts.

The *2020 Supplementary Directory* is being issued in the midst of the COVID-19 pandemic, which has resulted in the gravest health and economic crises in a century. It is far too early to predict the precise impact of the crises on the new bargaining relationships listed in this directory or their long-term consequences on higher education collective bargaining. Nevertheless, it is probable that the pandemic and related crises will have immense ramifications for higher education institutions and those who work at those institutions.