



Graduate Student Unionization: Frequently Asked Questions

Conversations are taking place on the Brown University campus and throughout the country about the role graduate students play in the educational mission and operations of private universities, such as Brown. In particular, at Brown and at a number of our peer institutions, discussions have focused on whether graduate student teaching and research assistants at private universities should be regarded as students, as they are under current law, or as employees with the right to unionize.

Under current law, graduate student teaching and research assistants at private institutions of higher education are considered students first and foremost, and not employees, and thus are not subject to unionization. In two pending cases, the United Auto Workers union has asked the National Labor Relations Board (NLRB) to reconsider the current classification of graduate students. Arguments for and against reconsideration have been submitted to the NLRB. The decision, expected in late summer 2016, could have important implications for graduate education at private institutions of higher education across the country.

Regardless of the decision, it is an important and opportune moment for our community to engage in open and productive dialogue about graduate education and the potential role and implications of unionization. This website is intended to provide information to inform these discussions, including responses to frequently asked questions* and a range of additional resources.

*Some questions and responses have been adapted from materials prepared by the University of Chicago.

For additional questions, please email provost@brown.edu.

1. WHAT IS THE NLRB?

The National Labor Relations Board (NLRB) is an independent federal agency created to enforce the National Labor Relations Act. The NLRB is authorized to protect the rights of employees to organize and to determine whether to have unions as their bargaining representatives. Headquartered in Washington, DC, it has regional offices across the country, including one in Boston, MA.¹

2. WHY IS THE NLRB REVIEWING THIS ISSUE?

Graduate student unionization at private colleges and universities is covered by the National Labor Relations Act (NLRA), which is enforced by the NLRB. (At public institutions it is governed by state laws, which vary by state.) For more than 25 years, graduate students were determined to be students and not employees. In 2000, the NLRB ruled in a case involving New York University (NYU)² that graduate students at private universities were covered under the national labor law and were subject to unionization. In a 2004 Brown University case,³ in which the United Auto Workers (UAW) petitioned to represent graduate student assistants, the NLRB returned to its earlier position and found that graduate students at Brown cannot be considered employees subject to collective bargaining. The ruling indicated that graduate assistants who teach and do research at Brown in connection with their doctoral studies “have a primarily educational, not economic, relationship with their university.” Two cases pending before the NLRB (Columbia University⁴ and The New School for Social Research⁵) have once again raised the issue of graduate student unionization at private universities.

3. WHAT IS THE TIMEFRAME FOR THE NLRB DECISION?

The General Counsel of the NLRB has stated that the Board anticipates announcing a decision on the two pending cases by August 2016.

4. WHAT DOES IT MEAN FOR GRADUATE STUDENTS AT BROWN IF THE NLRB REVERSES ITS POSITION AND CHANGES FEDERAL LAW?

Under current law, graduate students are considered students and not “employees,” and are therefore not eligible to unionize. If the NLRB were to reverse this, graduate students at private institutions could be subject to organization and representation by a labor union. The NLRB might also make distinctions among different groups of graduate students in terms of their status under the law.

5. WHAT IS A UNION?

A union is an organization that serves as an agent representing a specific group of employees. This group is called a bargaining unit.

6. WHAT STEPS WOULD NEED TO TAKE PLACE TO UNIONIZE?

If the NLRB reverses its current position and holds that some or all graduate students at private universities are eligible for collective bargaining, a labor union would need support from at least 30% of the eligible graduate assistants to file a petition with the regional office of the NLRB to represent graduate students at Brown. The University would be notified of the petition, and a secret ballot election of eligible graduate students would be required to determine whether graduate student assistants at Brown are interested or not in being represented by the union. The majority of those voting would determine the outcome of the election.

7. WHICH LABOR UNION WOULD LIKELY REPRESENT GRADUATE STUDENTS AT BROWN IF THERE WERE A DECISION TO UNIONIZE?

A union with interest in representing some or all graduate student assistants would need to petition the regional NLRB to represent Brown graduate students, and eligible students would then decide through an election whether to be represented by that union. In 2001, the United Auto Workers (UAW) petitioned to represent Brown graduate student research and teaching assistants, which the NLRB denied. In the recent New School and Columbia cases pending before the NLRB, the UAW has petitioned to represent graduate student assistants at those institutions.

8. WHEN WOULD AN ELECTION TO DETERMINE UNIONIZATION TAKE PLACE AND WHAT IS THE PROCESS?

If the NLRB changes the current law and once a petition has been filed with the regional NLRB office, an election would likely be held within a few weeks of filing the petition. This would depend on whether certain legal issues would have to be addressed by the NLRB prior to scheduling an election.

9. WHO WOULD BE ELIGIBLE TO PARTICIPATE IN AN ELECTION?

Eligibility to participate in an election depends on what the NLRB decides in the Columbia and New School cases. Universities do not know whether the NLRB will make distinctions among different categories of graduate students. Therefore, at this time it is impossible to predict how many of Brown’s 2,200 graduate students would be eligible to vote in an election.

10. WOULD ALL GRADUATE STUDENTS AT BROWN BE CONSIDERED PART OF A UNION?

Universities do not know which graduate students would be eligible to be considered part of a union. Among the issues being decided by the NLRB are first, whether the 2004 *Brown* decision should be affirmed or reversed, and secondly, whether there should be distinctions among graduate assistants, such as research assistants supported by grant funding vs. university funding. Therefore, the composition of any “bargaining unit” is speculative at this point.

11. IF A GRADUATE STUDENT DID NOT WANT TO BE REPRESENTED BY A UNION, COULD THEY OPT OUT?

Depending on what the NLRB decides, only those graduate assistants considered “employees” could be represented by a union. However, if any union wins an election in a bargaining unit, all individuals in that bargaining unit are covered by the union contract. No graduate student would be forced to join the union, but a contract might require all represented students to pay an agency fee to the union, even if they did not support it.

12. ONCE A VOTE HAS TAKEN PLACE, VOTING EITHER IN FAVOR OR AGAINST UNIONIZATION, CAN AN ELECTION BE HELD AGAIN AT A LATER DATE TO REVISIT THE ISSUE?

If the majority of the eligible graduate students who vote decide to be represented by a specific union, it remains the bargaining representative indefinitely. Removing, or decertifying, a union is possible, and involves a complex and potentially lengthy process which cannot be initiated for one year after an election. If a vote yields a decision not to be represented, another election can take place one year later.

13. WOULD THE INTERNATIONAL STATUS OF STUDENTS AFFECT UNION ELIGIBILITY?

International student status does not affect eligibility to be part of a bargaining unit.

14. WHAT WOULD BE SUBJECT TO NEGOTIATION SHOULD A UNION REPRESENT GRADUATE STUDENTS?

Under the NLRA, an employer and union are required to bargain over “wages, hours and other conditions of employment.” Because the NLRB has no history of identifying appropriate subjects for bargaining for graduate students at private institutions, and because fundamental academic issues have not been considered subjects of bargaining, the determination of what subjects may be bargained would be shaped by future NLRB decisions and/or litigation. Although universities do not know exactly what would be part of any potential negotiations, the Collective Bargaining Agreement negotiated by the United Auto Workers and NYU offers an example of items that could be included (compensation, health and dental insurance, vacation time, leaves of absence, grievance process) and excluded (deciding “who is taught, what is taught”).⁶

15. HOW ARE DECISIONS MADE CURRENTLY AT BROWN WITH RESPECT TO GRADUATE STUDENT STIPENDS, ASSISTANTSHIPS AND BENEFITS?

Graduate education is core to Brown’s mission and central to the University’s strategic plan for advancing academic excellence over the next decade, *Building on Distinction*⁷. Supporting graduate education is also a priority in the associated comprehensive fundraising campaign, *BrownTogether*. As a result, through ongoing systems of planning and governance that involve the Graduate Council, Academic Priorities Committee, University Resources Committee and the University’s main governing body, the Corporation of Brown University, decisions regarding policies, resources and investments are made to ensure the University is able to attract the most promising graduate students and support their learning, growth and success. Ongoing engagement through this governance structure has led to increased stipends and benefits in recent years, including most recently providing doctoral students with guaranteed dental care and enhanced parental relief.⁸ The Graduate School spell’s out the rights and responsibilities of doctoral students in the Graduate School Handbook, and the Graduate School requires programs to clearly communicate program requirements, milestones and progress. Student feedback from the annual climate survey informs discussions with each graduate program about ways to address issues affecting student success, and graduate students are integral to Brown’s system of shared governance (see Q. 24).

16. WHAT WOULD THE EFFECT OF UNION REPRESENTATION BE ON GRADUATE STUDENT STIPENDS AND BENEFITS?

Brown is not yet able to determine the effect of possible union representation on our current student benefits. The current graduate student union contract at NYU includes compensation information for “graduate employees assigned to teaching,” “graduate employees assigned to other duties,” and “research assistants.” It also includes provisions related to health and dental insurance. As noted above, through Brown University’s annual budgeting process and the engaged governance and decision making, stipends for doctoral students have increased 52.5% since 2004-05, from \$16,000 to \$24,400 in 2016-17, (with annual gain ranges from 2.6% to 6.25%), and doctoral students receive health and dental insurance, among other benefits. Since stipends are part of the University’s financial support package, it is unclear whether they would be subject to bargaining.

17. WOULD THERE BE ANY IMPACT OF UNIONIZATION ON THE NUMBER OF HOURS THAT GRADUATE STUDENT ASSISTANTS COVERED BY A CONTRACT ALLOCATE TO TEACHING OR RESEARCH?

In any given semester at Brown, a graduate student’s stipend is attached to a particular activity, either a fellowship, teaching assistantship, research assistantship, or proctorship as a part of the candidate’s scholarly training. The Graduate School has a longstanding policy that a student should spend no more than 20 hours per week on these activities, a policy designed to protect a student’s time available for scholarly activities such as coursework, reading, research and writing that are also a part of graduate training.⁹ It is unlikely that the educational policy regarding allocation of student time would be subject to collective bargaining.

18. WOULD THERE BE ANY EFFECT ON THE RELATIONSHIP BETWEEN FACULTY AND GRADUATE STUDENTS WHO ARE REPRESENTED BY THE UNION?

It is impossible to speculate on the impact that a business relationship would have on the relationship that exists between a graduate student and faculty members. This would depend upon the items negotiated in a contract and any final collective bargaining agreement.

19. WHAT IS THE DUES STRUCTURE FOR UNION REPRESENTATION?

It is unclear what dues might be for union representation in the event of graduate student unionization at Brown. According to the NYU graduate union website, dues are 2% of total compensation (which includes wages from union work and NYU funding package) during the semesters in which a graduate assistant is employed in a union position, and dues are deducted from every paycheck. In addition to the dues there is an initiation fee of approximately \$50.00.¹⁰

20. WHAT ARE THE ARGUMENTS FOR AND AGAINST GRADUATE STUDENT UNIONIZATION?

The debate over graduate student unionization centers on the question of whether graduate student assistants are employees or students. Opponents of classifying graduate students as employees maintain that the teaching and research that graduate students conduct is so intertwined with their education and professional development that collective bargaining will intrude into academic matters that are inappropriate subjects of collective bargaining. Supporters of unionization argue that graduate students are employees and that the rights of employees are better represented through collective bargaining.

21. WHAT HAS BEEN THE EXPERIENCE AT OTHER INSTITUTIONS WITH RESPECT TO GRADUATE STUDENT UNIONS?

There is limited information to draw from regarding the effects of graduate student unionization at private universities such as Brown. While there is a history of public university graduate student assistants being represented by unions (as of 2014, there were 31 recognized graduate employee unions and 18 unrecognized unions in the US¹¹), at present, New York University is the only private university in the country to have a voluntary union for doctoral students. That union represents graduate teaching assistants and research assistants other than those in the hard sciences, and their service as graduate assistants is not directly related to any educational requirements.

22. WHAT IS THE UNIVERSITY'S POSITION ON UNIONIZATION FOR GRADUATE STUDENTS?

Every institution is different and offers a distinct context for considering the role of collective bargaining and unionization. Brown has publicly articulated its position on the potential role and effect of unionization at two key points in the course of the ongoing national conversation. In 2001, in conjunction with the *Brown* case that established the current law, Brown argued before the NLRB regional director in Boston that teaching and research are an essential part of academic development and graduate training, and that graduate assistants should be recognized as students, not employees. More recently, in February 2015, the University reaffirmed its position and joined eight other research universities in filing a brief¹² calling for the NLRB to continue to recognize graduate assistants as students, and not as employees.

23. HOW WOULD BROWN RESPOND TO EFFORTS TO UNIONIZE?

If a petition were filed by a union, Brown would work to ensure that there was a robust and informed discussion on campus about the election process and the impact that unionization of students might have on our campus. We believe that a full and informed discussion of this issue would be important both to graduate students and to faculty.

24. HOW ARE GRADUATE STUDENTS CURRENTLY REPRESENTED AT BROWN?

Brown University has a strong and participatory system of shared governance and decision making that engages students, faculty and staff. The Graduate Student Council¹³ is the student government organization representing the more than 2,200 graduate students at Brown. Graduate students are represented on the Graduate Council,¹⁴ the body overseeing policies for graduate education at Brown; on the University Resources Committee,¹⁵ which develops the University's budget, including that of the Graduate School; on the Diversity Implementation and Oversight Board¹⁶; and the Brown University Community Council.¹⁷ Graduate students also are regularly represented on a range of ad hoc working groups and task forces, and on search committees for deans and other offices affecting graduate students. The GSC provides service by nominating students to these bodies and committees. In addition, the schools within the University have their own governance structures to engage students.¹⁸

25. WOULD UNION REPRESENTATION AFFECT THE CURRENT GOVERNANCE STRUCTURE? WOULD GRADUATE STUDENTS REPRESENTED BY A UNION BE ELIGIBLE TO SERVE ON UNIVERSITY COMMITTEES?

It is impossible to speculate on the impact of unionization on the existing governance system. When a union is elected to represent a group of employees, the union has the exclusive right to bargain on behalf of all employees in the bargaining unit over wages, hours and other terms and conditions of employment. That means that the employer is prohibited from entering into individual agreements with employees about working conditions, or otherwise making changes without bargaining with the union. Although the existence of a union would not necessarily supplant the existence of the graduate student governance structure, the structure's capacity to represent the interests of graduate students may be affected.

26. WOULD UNION REPRESENTATION AFFECT THE PROCESS FOR FILING GRIEVANCES?

We cannot predict the impact of unionization on the grievance process. It is University policy that each and every graduate student is entitled to a fair and prompt hearing of grievances, and the grievance process for graduate students is outlined in the Faculty Rules and Regulations.¹⁹ In the case of NYU, Article XX of its Collective Bargaining Agreement outlines grievance and arbitration procedures for members of the bargaining unit with respect to violation of the terms of the agreement.

27. WOULD STUDENTS HAVE ACCESS TO A DRAFT OF A PROPOSED CONTRACT OR SET OF ITEMS TO BE NEGOTIATED PRIOR TO A VOTE ON UNIONIZATION?

If the NLRB were to reverse current law, a secret ballot election of eligible graduate students would be required to determine whether graduate student assistants at Brown are interested or not in being represented by the union. The majority of those voting would determine the outcome of the election. Any negotiations to develop a collective bargaining agreement would take place after the election. The manner in which a union creates its proposals is governed by the union's own by-laws. It would be highly unusual for a union to announce a set of proposals prior to an election, and there would not be a draft contract since any proposals would be subject to bargaining, which would follow an election.

28. HOW CAN I LEARN MORE ABOUT PERSPECTIVES ON UNIONIZATION?

The Resources Page of this website includes a range of materials related to graduate student unionization, including news articles, research studies and links to the relevant NLRB cases.

Endnotes

- 1 NLRB web page <https://www.nlr.gov/>
- 2 NLRB web page, Cases & Decisions, <https://www.nlr.gov/case/02-RC-022082>
- 3 NLRB website, Cases & Decision, <https://www.nlr.gov/case/01-RC-021368>
- 4 NLRB web page, Cases & Decisions, <https://www.nlr.gov/case/02-RC-143012>
- 5 NLRB web page, Cases & Decisions, <https://www.nlr.gov/case/02-RC-143009>
- 6 GSOC-UAW Local 2110 website, <http://www.makingabetternyu.org/gsocuaw/understand-it/>
- 7 *Building on Distinction* website, <https://www.brown.edu/about/administration/strategic-planning/>
- 8 viii Initiatives in Doctoral Education and Student Support website, <https://www.brown.edu/academics/gradschool/about/initiatives-doctoral-education-and-student-support>
- 9 <https://www.brown.edu/academics/gradschool/academics/rules-regulations/activities-outside-stipended-appointments>
- 10 GSOC-UAW Local 2110 website, <http://www.makingabetternyu.org/gsocuaw/for-grad-workers/>
- 11 Coalition of Graduate Employee Unions website, <http://www.thecgeu.org/>
- 12 Amicus brief filed in support of Columbia by Brown, Cornell University, Dartmouth College, Harvard University, Massachusetts Institute of Technology, the University of Pennsylvania, Princeton University, Stanford University and Yale University. https://brown.edu/web/documents/NLRB_amicus_brief_case_02-rc-143012_Feb_29_2016.pdf
- 13 <http://students.brown.edu/gsc/about/gsc-overview/>
- 14 <https://www.brown.edu/academics/gradschool/about/governance-graduate-council>
- 15 <https://www.brown.edu/about/administration/provost/index.php?q=university-resources-committee-urc>
- 16 <https://www.brown.edu/about/administration/institutional-diversity/oversight-board>
- 17 <https://www.brown.edu/about/administration/community-council/membership>
- 18 For example, Public Health has the following several School-wide standing committees on which graduate students serve:
 - Public Health Curriculum Committee (PHCC)
 - Graduate Program Steering Committee (GPSC)
 - MPH Curriculum Committee
 - School of Public Health Diversity Planning Committee
- 19 Brown University Faculty Rules and Regulations, Version 13.1, July 2015, page 108. [http://www.brown.edu/Faculty/Faculty_Governance/rules/FacultyRules%20\[3\].pdf](http://www.brown.edu/Faculty/Faculty_Governance/rules/FacultyRules%20[3].pdf)

