



Unionization In The Classroom: GW's Response To Organizing Part-Time Faculty

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LETTER TO ACADEMIC DEANS

March 17, 2004

TO: Deans

FROM: Donald R. Lehman, Executive Vice President for Academic Affairs

RE: Recent Union Organizing Efforts at the University

As we discussed during the Council of Deans meeting on March 10, 2004, the Service Employees International Union, Local 500 (the "Service Employees") has filed a petition with the National Labor Relations Board ("NLRB") seeking to represent most part-time and regular part-time faculty at the University**.

The Service Employees claim that they have gathered enough signatures from part-time faculty to demand that an election be held among those part-time faculty in the appropriate bargaining unit to decide whether the part-time faculty wish to have the Service Employees be their exclusive representative for purposes of collective bargaining. If they are successful, a resulting collective bargaining agreement could exclusively govern, among other things, all of the part-time faculty members' pay, benefits, course schedules, workloads, appointment and reappointment procedures, and hours of work.

This possibility raises serious issues about the nature of our relationship to the part-time faculty. It may also have significant implications for classroom instruction and the University's academic strategic plan. Further, it is unclear whether those individuals who were approached to sign union authorization cards have received balanced, fair, and correct information about the requirements of union membership and how these requirements may affect the working and educational relationships of its members.

While GW's academic leadership has serious concerns relative to the unionization of part-time faculty, and along with it forced collective bargaining over matters traditionally involving issues of academic freedom, we support and encourage a healthy and vigorous discussion. And, there will be opportunities prior to any election for us to engage in this discussion. At this time, however, I wish to provide some important guidelines on the parameters for such a discussion, and I encourage you to share them with department chairs.

Legal Framework

A federal law known as the National Labor Relations Act (the "Act") provides the legal framework within which the University and any potential labor organization

must proceed. The National Labor Relations Board (“NLRB”) is the agency charged with administering the Act, by setting forth the rules over how we can communicate with our part-time faculty concerning the Service Employees’ organizing drive.

Section 8(c) of the Act states:

The expressing of any views, argument or opinion or the dissemination thereof, whether in written, printed, graphic or visual form, shall not constitute or be evidence of an unfair labor practice under any provision of this [Act], if such expression contains no threat of reprisal or force or promise of benefit.

This provision protects discussions and expressions of opinion as long as there is no threat of reprisal, force, or promise of benefits. This right of expression includes the right to state opinions as to whether a union contract with part-time faculty would serve our best academic interests.

How We Can Communicate

University management, faculty, and administrators are free to express their opinions and engage in discussions about the issues raised, provided a few simple guidelines are followed.

1. No individual can threaten a part-time faculty member because of his or her union activities or sympathies. For example, we cannot threaten to give a person a poor reference or refuse to re-appoint someone as a part-time faculty member because of his or her union involvement. We also cannot threaten adverse consequences such as increased work, fewer opportunities, or increased costs associated with part-time faculty.

On the other hand, we can inform part-time faculty that unionization could lead to changes in the reliance of faculty on them. We can tell them that the negotiation of a union contract may result in restrictions on the way faculty work with part-time faculty. We can also explain that department and individual decisions on a wide range of issues could be limited by inflexible, “across the board” union contract rules. Of utmost importance at this early stage, we need to inform them that they are not obligated to vote for the union at any election merely because they have previously signed union petitions or authorization cards, nor must they talk to a union organizer.

Further, we can explain to part-time faculty that academic departments may be bound by union negotiated pay rates, raises, benefits, and course schedules rather than proactively addressing these issues individually and in a timely fashion.

In addition, a union contract may require significant “up-front” initiation fees and dues, which are often deducted directly from their paychecks as a condition of continued employment. We can remind them that the union, in the event that an individual member refused to participate in a strike or any other form of work stoppage, could fine that individual, enforce those fines in court, or demand that the University terminate his or her appointment.

2. We cannot interrogate part-time faculty about their union sympathies, whether they signed a union authorization card, or how they plan to vote in the event of an election. In addition, we cannot question individuals about their prior union affiliations, internal union affairs, or union meetings. We can, however, actively listen to and relay this information if it is volunteered by an individual.
3. We cannot make promises of favorable treatment as an inducement not to support the union. For example, we cannot promise part-time faculty pay increases, promotions, lighter workloads, or other special favors on the condition that they refuse to join the union or vote against it.
4. Finally, we cannot engage in surveillance or create the impression of surveillance of the union activities or sympathies of part-time faculty. An example of this would be asking someone to attend a union meeting and report on who was there and what was discussed. As previously discussed, however, we can actively listen and relay this information if it is volunteered by an individual.

In summary, while we must avoid any communication that can be perceived as threatening, interrogating, promising, or surveilling, we always have the right to communicate the facts, our own personal opinions, and any experiences we may have concerning unionization. As always, the University remains committed to working with everyone to improve our academic community. Just as importantly, we believe in listening and addressing our community's concerns. As part of our ongoing efforts, we need your input. Please relay any issues or concerns that you are aware of or know that part-time faculty may have, so that we have an opportunity to respond.

As an aid to you, I have attached several examples of comments that University representatives are legally permitted to say in response to union activity, as well as examples of communications that are prohibited by federal labor law. In addition, I have included a summary of how best to respond to various forms of union activity that you may face on campus, at home or anywhere in between. You may wish to review the University's website on this issue at www.unionization.gwu.edu.

Again, we believe that having a third party stand between part-time faculty and the academic departments is not in the best interests of the students whom we serve. If you or anyone you know have any questions, please feel free to contact me.

**The University was faced with a union organizing campaign over the course of the last few years from a group affiliated with the United Auto Workers. At that time, we understood that the campaign included graduate teaching assistants (GTAs) as well as part-time faculty. As best we understand now, the Service Employees have petitioned the NLRB to represent only part-time faculty and not GTAs. Of course, that does not mean that there are not ongoing efforts to organize GTAs, and the information provided in this memorandum applies to any efforts to organize GTAs as well.

ACTION TO BE TAKEN IN RESPONSE TO UNION ACTIVITY



If This Happens	Take This Action
<p>A UNION REPRESENTATIVE OR SOMEONE CLAIMING TO REPRESENT A UNION APPROACHES YOU TO DISCUSS UNION REPRESENTATION OF PART-TIME FACULTY</p>	<ol style="list-style-type: none"> 1. ADVISE THE INDIVIDUAL THAT ALL MATTERS PERTAINING TO UNION REPRESENTATION ARE HANDLED BY DON LEHMAN. 2. DO NOT ANSWER ANY QUESTIONS OR PROVIDE DATA OR INFORMATION ABOUT PART-TIME FACULTY. 3. POLITELY, BUT FIRMLY, ASK HIM OR HER TO LEAVE. 4. IF THE INDIVIDUAL PERSISTS OR ATTEMPTS TO SPEAK TO PART-TIME FACULTY, OR OTHERS, ADVISE HIM OR HER THAT HE OR SHE IS TRESPASSING AND IT MAY BE NECESSARY TO CALL CAMPUS SECURITY. IF YOU ARE FORCED INTO A POSITION OF TALKING TO HIM OR HER: <ul style="list-style-type: none"> (A) HAVE ANOTHER MEMBER OF THE UNIVERSITY ADMINISTRATION WITH YOU AT ALL TIMES. (B) NOTE HIS OR HER NAME AND UNION AFFILIATION. (C) NOTE WHAT HE OR SHE HAS TO SAY BUT ADVISE HIM OR HER AGAIN THAT ALL MATTERS PERTAINING TO UNION REPRESENTATION ARE HANDLED BY DON LEHMAN. (D) IF HE OR SHE STATES THAT HE OR SHE REPRESENTS A MAJORITY OF THE PART-TIME FACULTY, OR OTHERS, MERELY ADVISE HIM OR HER THAT YOU DOUBT THIS. DO NOT ELABORATE ON THIS SUBJECT OR ENGAGE IN ANY CONVERSATION OR ANSWER ANY QUESTIONS. 5. IMMEDIATELY CONTACT DON

	LEHMAN.
<p>A UNION REPRESENTATIVE OR SOMEONE CLAIMING TO REPRESENT A UNION ATTEMPTS TO HAND YOU UNION AUTHORIZATION CARDS OR A PETITION SIGNED BY PART-TIME FACULTY</p>	<p>1. UNDER NO CIRCUMSTANCES ARE UNION AUTHORIZATION CARDS OR A UNION PETITION TO BE RECEIVED, INSPECTED, OR LOOKED AT BY ANY MEMBER OF THE UNIVERSITY</p> <p>(A) REFUSE TO TAKE THE MATERIALS.</p> <p>(B) IF THE CARDS ARE DROPPED OR LEFT ON YOUR DESK OR IN YOUR DEPARTMENT, HAVE ANOTHER MEMBER OF UNIVERSITY ADMINISTRATION WITNESS THE IMMEDIATE FORWARDING OF THE CARDS TO DON LEHMAN. (DO NOT EXAMINE THEM IN ANY MANNER.)</p>
<p>A UNION REPRESENTATIVE OR SOMEONE CLAIMING TO REPRESENT A UNION APPEARS OUTSIDE THE BUILDING IN WHICH YOUR OFFICE IS LOCATED AND BEGINS TO DISTRIBUTE LITERATURE.</p>	<p>1. REPORT THE INCIDENT TO DON LEHMAN IMMEDIATELY.</p> <p>2. GET COPIES OF THE LITERATURE DISTRIBUTED.</p> <p>3. MAKE NOTE OF THE TIME THAT DISTRIBUTION BEGAN AND THE TIME IT ENDED, THE NUMBER OF PEOPLE MAKING THE DISTRIBUTION, AND THEIR LOCATIONS.</p> <p>4. MAKE BRIEF NOTES DESCRIBING THE INDIVIDUALS, LICENSE NUMBERS, ETC.</p> <p>5. ATTEMPT TO ASCERTAIN THE EXTENT TO WHICH INDIVIDUALS ACTUALLY RECEIVED AND RETAINED THE LITERATURE.</p> <p>6. NORMAL OBSERVATION BY MEMBERS OF THE ADMINISTRATION MAY AND SHOULD BE MADE IN THE REGULAR COURSE OF THE DAY.</p>
<p>YOU RECEIVE A TELEPHONE CALL FROM A UNION REPRESENTATIVE OR SOMEONE CLAIMING</p>	<p>1. OBTAIN HIS OR HER FULL NAME, THE LOCAL NUMBER OF HIS OR HER UNION, AND HIS OR HER TELEPHONE NUMBER.</p>

TO REPRESENT A UNION.	2. ADVISE HIM OR HER THAT ALL UNION MATTERS ARE HANDLED BY DON LEHMAN AND THAT HE OR SHE SHOULD DIRECT INQUIRIES TO HIS ATTENTION.
YOU RECEIVE A TELEPHONE CALL FROM A MEMBER OF THE PRESS INQUIRING ABOUT THE UNIVERSITY'S POSITION ON UNIONIZATION.	ADVISE HIM OR HER THAT THE OFFICE OF UNIVERSITY RELATIONS HANDLES SUCH INQUIRIES AND SUGGEST THAT HE OR SHE CONTACT MATT NEHMER, UNIVERSITY RELATIONS, AT 994-6467 .

WHAT YOU CAN SAY TO PART-TIME FACULTY IN SUPPORT OF THE ACADEMIC LEADERSHIP'S POSITION

1. You can tell them you are opposed to the union.
2. You can tell them that you believe they do not need the union.
3. You can tell them that you believe their interests are served without having the union standing between them and the academic leadership.
4. You can remind them of what they have received from the University without the union and without paying union dues and initiation fees (e.g., pay competitive with area institutions, flexible scheduling, benefits for regular part-time faculty).
5. You can refer them to the University's Web page (www.unionization.gwu.edu) for more specific information.
6. You can tell them that the union is an outsider.
7. You can say that unions may cause strikes.
8. You can tell them about the disadvantages of joining a union, such as the fact that unions may call strikes and may require the payment of dues, initiation fees, and assessments.
9. You can tell them about the independence they will lose by joining the union.
10. You can tell them about NLRB decisions allowing unions to fine members who cross picket lines.
11. You can tell them that they do not have to sign authorization cards, or to vote for the union in the event they have already signed authorization cards.
12. You can tell them they do not have to talk to an organizer or allow him or her in their homes.

13. You can state your opposition to compulsory unionization.
14. You can say that the union may demand that dues and fees be deducted from part-time faculty members' paychecks.
15. You can point out, and correct, false or misleading union propaganda.
16. You can remind the part-time faculty that there will be no automatic increase in part-time faculty wages or benefits, just because the union becomes the bargaining agent, and note that the part-time faculty at NYU is still without a collective bargaining agreement over one and one-half years since they voted to unionize.

WHAT YOU CANNOT SAY TO PART-TIME FACULTY

1. You may not promise part-time faculty pay increases, promotions, improved working conditions and benefits, or special favors, on the condition that they refuse to join the union or vote against it.
2. You may not threaten part-time faculty with loss of a job or a reduction in wages, or use threatening or intimidating language calculated to influence the exercise of his or her right to support the union.
3. You must not discriminate against part-time faculty members taking part in union activities by separating them from other part-time faculty, intentionally assigning them to undesirable assignments or tasks, or prohibiting them from teaching previously authorized courses because of their union activities.
4. You may not threaten to or actually discipline or terminate the appointment of part-time faculty members for engaging in union activity provided they are engaging in this activity outside of their classroom instruction periods and other normal working times. However, even though a part-time faculty member is on non-working time, he or she may be warned and disciplined for interfering with another part-time faculty member who is engaged in classroom instruction or other normal work responsibilities.
5. You may not engage in surveillance of part-time faculty members attending union meetings or receiving union handbills, or give the impression that their activities are being watched.
6. You may not question part-time faculty about their prior or present union affiliations, internal union affairs, or union meetings, nor ask them whether he or she has signed a union card. It is not improper, however, for you to receive such information if an individual volunteers it.
7. You may not systematically visit the homes of part-time faculty to urge them to vote against the union.
8. You may not solicit or encourage part-time faculty to request the return of their authorization cards, or assist them by writing letters to the union or the NLRB.

However, you may respond affirmatively to their questions as to whether they can get their cards back, and advise them, if this is their desire, to contact the person who solicited their signatures.