

EPI comments on NLRB's proposed rule regarding nonemployee status of students at private institutions

Public Comments • By Margaret Poydock, Celine McNicholas, and Julia Wolfe • January 15, 2020

Roxanne Rothschild
Executive Secretary
National Labor Relations Board
1015 Half Street, SE
Washington, DC 20570

Re: Jurisdiction—Nonemployee Status of University and College Students Working in Connection With Their Studies (RIN 3142-AA15)

Members of the National Labor Relations Board:

The Economic Policy Institute (EPI) is a nonprofit, nonpartisan think tank created in 1986 to include the needs of low- and middle-income workers in economic policy discussions. EPI conducts research and analysis on the economic status of working America, proposes public policies that protect and improve the economic conditions of low- and middle-income workers, and assesses policies with respect to how well they further those goals.

EPI strongly opposes the National Labor Relations Board's (NLRB/Board) proposed rulemaking regarding the nonemployee status of university and college students working in connection with their studies. This proposal would rob graduate teaching assistants and other student employees of the rights to organize and collectively bargain. The National Labor Relations Act (NLRA/Act) gives employees the fundamental rights to organize and join a union. An increasing number of graduate student workers across the country are seeking to exercise these rights at the private universities where they work while they pursue their education. The Board Majority failed to consider any data or conduct any meaningful analysis of the academic workplace in developing the proposed rule. Instead, the proposal asserts that that student

Table 1

Graduate assistants make up a larger share of the academic workforce than tenured faculty

Shares of the instructional academic workforce, by faculty status, fall 2017

Position	Fall 2017 share
<i>Tenured/tenure-track faculty</i>	24.4%
Tenured faculty	17.1%
Tenure-track faculty	7.3%
<i>Nontenure-track instructional staff</i>	54.6%
Graduate assistants	21.0%

Note: “Nontenure-track instructional staff” refers to instructional staff members who are not on tenure track, have no tenure system, or do not have faculty status.

Source: Authors’ analysis of National Center for Education Statistics (NCES) data, retrieved November 19, 2019, using the Integrated Postsecondary Education Data System (IPEDS)

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teaching assistants and student research assistants at private universities are not employees with protected bargaining rights because extending those rights will “harm academic freedom.” The immediate effect of this proposed rule would be to take away the collective bargaining rights of the roughly 57,500 graduate assistants working at private universities.¹ However, that does not capture the full extent of the potential impact. There are more than 1.5 million graduate students at America’s private universities, and they stand to lose the right to collective bargaining if the proposed rule goes into effect.²

The changing academic workforce

As far back as 2003, researchers were noting a steady decades-long trend of shifting teaching duties away from regular faculty and onto the shoulders of a much cheaper source of labor: graduate students and adjunct instructors.³ That shift has only accelerated, as documented in a 2018 EPI report on the state of graduate employee unions.⁴ Today, universities rely heavily on graduate assistants to teach classes, grade papers and tests, and conduct research.

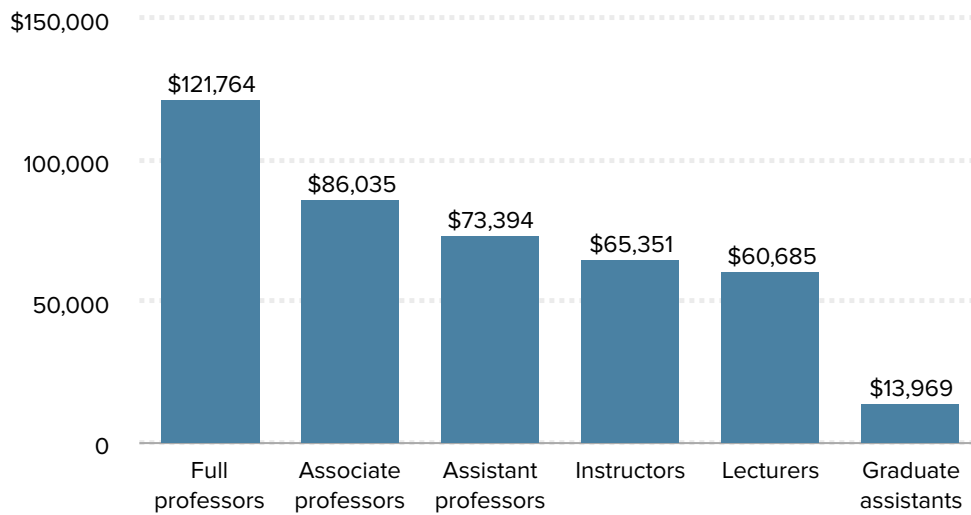
Graduate student assistants are doing work for low pay

Table 1 provides the distribution of the academic workforce in fall 2017, using data from the U.S. Department of Education’s National Center for Education Statistics (NCES). As the table shows, tenured and tenure-track instructional faculty account for just under a quarter (24.4%) of the academic workforce. Graduate assistants make up nearly as large of a share of the academic workforce (21.0%).⁵ However, graduate assistantships pay dramatically less than faculty positions.

As shown in **Figure A**, the average graduate assistant is paid \$13,969 (data from the 2015–2016 academic year, adjusted to 2017–2018 school year dollars).⁶ Graduate student

Figure A

Average salary of instructional faculty and graduate assistants, by academic rank



Notes: Salary data by academic rank are for full-time instructional faculty on nine-month contracts and are in 2017–2018 school year dollars. Graduate assistantship amounts are for the 2015–2016 school year, inflation adjusted into 2017–2018 school year dollars using CPI-U. We are assuming that “school year dollars” refers to August–May. On average, graduate student employees work 22.7 hours per week.

Sources: Salary data are from the National Center for Education Statistics (NCES), *College and Career Tables Library* [online data], [Table 4.2](#), accessed November 2019, and the NCES *Digest of Education Statistics*, [Table 316.10](#), accessed November 2019. Work hours data are from NCES *College and Career Tables Library* [Table 2.4-A](#), accessed November 2019.

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assistants work an average of 22.7 hours a week. Though not shown in the figure, graduate assistants who are in Ph.D. programs⁷ are paid \$19,286, somewhat more than graduate assistants overall.⁸ By comparison, the average salaries for other instructional faculty range from \$60,685 for lecturers to \$121,764 for full professors.

Individuals who are teaching classes, grading papers and tests, conducting research, and performing other tasks for their university employers while enrolled in graduate school deserve livable wages. One way to ensure a fair return on their labor is through collective bargaining—the very right the proposed rule seeks to take from these workers.

Public universities have collective bargaining

Public universities have had graduate student worker unions for 50 years. In 2016, more than 64,000 graduate student employees were unionized at 28 institutions of higher education in the public sector.⁹ There is no evidence that colleges and universities with union-represented student employees have experienced a loss of “academic freedom,” as the Board Majority suggests.

In reality, union-represented graduate student employees at public universities have reported higher levels of personal and professional support and higher pay than

have non-union-represented graduate student workers. And unionized and nonunionized student employees report similar perceptions of their academic freedom.¹⁰ The boost to support and pay is perhaps one reason graduate student employees have been voting to unionize on campuses across the country the last few years. Student employees at several private universities have unionized and won better working conditions: higher pay, better health care coverage, and more child care assistance. The Board Majority's proposal would rob student employees of these types of gains.

Who are today's graduate teaching assistants?

Data from the National Center for Education Statistics provide a picture of the graduate students who are subject to a loss of rights under the Board Majority's proposal. As of 2015–2016, the average graduate student (including those who are and are not working as assistants) is 32.1 years old and received a bachelor's degree 5.6 years before entering graduate school. Most (59.3%) are female and about one-third (32.2%) of all graduate students have dependents.¹¹

About 8% (7.9%) of graduate students report working as graduate student assistants, and lower-income graduate students are more likely to work graduate school jobs than their higher-income peers.¹²

Ph.D. students, excluding those studying education, are even more likely than the typical graduate student to work as graduate student assistants; nearly four in 10 Ph.D. students (37.5%) report receiving graduate assistantships. The average Ph.D. student (including those who are and are not working as assistants) is 32.8 years old and received a bachelor's degree 5.8 years before entering graduate school.¹³

Collective bargaining improves graduate student pay and benefits

Since the NLRB's *Columbia* decision, graduate students have mobilized to form unions. Students at over a dozen private institutions have voted in favor of unionization, including students at Brown University, Harvard University, Georgetown University, Yale University, and the University of Chicago.¹⁴ Furthermore, four private institutions have formalized contracts between graduate student employees and their universities: American University, Brandeis University, The New School, and Tufts University.¹⁵

Collective bargaining through a union provides graduate students a degree of power over their employment. Workers in unions are paid more than their nonunionized peers on average, and the wage boost from being covered by collective bargaining is even greater for workers of color.¹⁶ Higher wages allow graduate students to adequately support themselves and provide for their families. At the New School, for example, the graduate student employees negotiated a minimum compensation rate with a general wage increase of 2% each year for the duration of their contract.¹⁷ And at Tufts University, Ph.D. students of the Graduate School of the Arts and Sciences negotiated 12 weeks of paid parental leave and subsidized adult and child care services through the university.¹⁸

Collective bargaining also helps graduate students gain workplace protections and control over their working lives. In a contract negotiated between Brandeis University and Ph.D. students, for example, there is a cap on workload per week per course.¹⁹ At the New School, graduate student employees negotiated protections against discrimination on the basis of gender identity or sexual orientation. These are just a few examples of how graduate student employees have improved their pay, benefits, and working conditions through collective bargaining.

Conclusion

EPI strongly opposes the NLRB’s proposed rulemaking in regards to the employee status of students at private institutions. The proposed rule is founded on the flawed logic that extending employee rights to student teaching assistants would harm private institutions’ “academic freedom,” despite graduate students in public universities enjoying the same rights for the last 50 years. All workers deserve the basic right to a union—including the 57,500 graduate assistants and all 1.5 million graduate students at private universities. We urge the NLRB to withdraw the proposed rule.

Sincerely,

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Notes

1. National Center for Education Statistics (U.S. Department of Education), *College and Career Tables Library* [online data from the [2015–2016 National Postsecondary Student Aid Study \(NPSAS\)](#)], Table 7 (data on the share of graduate students who work as assistants is from the 2015–2016 school year); National Center for Education Statistics (U.S. Department of Education), *Digest of Education Statistics*, [Table 303.60](#) (data on the number of graduate students are for fall 2017), 2018.
2. National Center for Education Statistics (U.S. Department of Education), *Digest of Education Statistics*, [Table 303.60](#) (data are for fall 2017), 2018.
3. Gordon Lafer, “[Graduate Student Unions: Organizing in a Changed Academic Economy](#),” *Works and Days* 41/42 vol. 21, nos. 1&2 (2003).
4. Teresa Kroeger, Celine McNicholas, Marni von Wilpert, and Julia Wolfe, *The State of Graduate*

Student Employee Unions: Momentum to Organize Among Graduate Student Workers Is Growing Despite Opposition, Economic Policy Institute, January 2018.

5. Graduate student assistantships include research assistantships, teaching assistantships, and any other types of graduate assistantships.
6. Unless otherwise noted, all NCES data refer to the 2015–2016 school year. All data are for the most recent period available.
7. Throughout this report, “Ph.D. students” refers to Ph.D. students who are not in programs in the field of education (e.g., K–12 teaching or administration).
8. National Center for Education Statistics (U.S. Department of Education), *College and Career Tables Library* [online data from the **2015–2016 National Postsecondary Student Aid Study** (NPSAS)], Table 4.2, accessed November 19, 2019.
9. *Columbia Univ.*, 364 NLRB No. 90, Slip. Op. at *8–9 (Aug. 23, 2016).
10. Sean Rogers, Adrienne E. Eaton, and Paula B. Voos, “**Effects of Unionization on Graduate Student Employees: Faculty-Student Relations, Academic Freedom, and Pay**,” *ILR Review* 66, no. 2 (2014), 487–510.
11. National Center for Education Statistics (U.S. Department of Education), *College and Career Tables Library* [online data from the **2015–2016 National Postsecondary Student Aid Study** (NPSAS)], Table 2.2-A, Table 1.1-B, accessed November 19, 2019.
12. National Center for Education Statistics (U.S. Department of Education), *College and Career Tables Library* [online data from the **2015–2016 National Postsecondary Student Aid Study** (NPSAS)], Table 4.2, Table 2.4, Table 2.2-A, accessed November 19, 2019.
13. National Center for Education Statistics (U.S. Department of Education), *College and Career Tables Library* [online data from the **2015–2016 National Postsecondary Student Aid Study** (NPSAS)], Table 4.2, Table 2.2-A, accessed November 19, 2019.
14. Katie Langin, “**Grad Student Unions Dealt Blow as Proposed New Rule Says Students Aren’t ‘Employees’**,” *Science*, September 20, 2019; Rachel Sadon, “**Georgetown Graduate Students Vote to Unionize**,” *DCist*, November 12, 2018.
15. Celine McNicholas, Margaret Poydock, and Julia Wolfe, *Graduate Student Workers’ Rights to Unionize Are Threatened by Trump Administration Proposal*, Economic Policy Institute, December 2019.
16. Josh Bivens et al., *How Today’s Unions Help Working People*, Economic Policy Institute, August 2017.
17. **Collective Bargaining Agreement Between the New School and the Student Employees at the New School, SENS-UAW, Local 7902, and the International Union, UAW**, 2017, p. 12.
18. **Collective Bargaining Agreement Between SEIU Local 509 Graduate Assistants and Tufts University**, 2018, p. 25.
19. **Collective Bargaining Agreement Between the Service Employees International Union, Local 509, CTW, CLC and Brandeis University**, 2018, p. 15.