

## **Panel & Workshop Descriptions**

**(listed in order of the conference schedule for those sessions *that provided a description*; only workshops require pre-registration)**

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### **New Academic Normal**

We plan to begin the panel with a presentation by Valerie Martin Conley and Marty Finkelstein. They will discuss some of their findings on faculty salary and benefit patterns, particularly as compared with patterns for similarly credentialed employees in the governmental and private sectors. Following that, Mark Cassell will discuss his research on the effects of unionization at higher ed institutions. Each presentation is allotted about one-third of our total time. We will then open it up for discussion of the broader implications of both the information presented and the social and political dimensions of the “new normal.” Two possible questions to open the discussion are: Is the new normal a state of being, a political agenda, or both; and given what we’ve heard, what will the next generation of higher ed faculty look like.

### **Yeshiva Redux: Religiously Affiliated Institutions and the Right to Unionize**

Given the importance of the 1980 Yeshiva decision, recent bids to unionize faculty at religious schools—and particularly adjuncts—are central to imagining the future of collective bargaining for higher education as a whole. In this panel participants will present background, arguments, and strategies, from their various points of view as either legal practitioners or adjunct activists. We hope to keep our formal presentations short, in order to facilitate what ought to be a robust and revealing debate over prospects for faculty unions at religiously affiliated schools, and the significance of these for faculty unions more generally. Briefly, the presentations are as follows:

- 1) Can the future of academic labor organizing be fruitfully explored? in the context of adjunct/contingent immunity to Yeshiva-linked limits, given that increasing adcon activism nationally has included strong and recent progress? (Dr. Alan Trevithick, moderator, board member, New Faculty Majority: The National Coalition for Adjunct and Contingent Equity)
- 2) What is the background and structure of NLRB v. Catholic Bishop of Chicago, its subsequent interpretation and application by the NLRB, and its significance in the determination of religious exclusion in colleges and universities? (Louis Michael Benedict, Esq., Higher Education Administration, Bowling Green State University)
- 3) What do recent NLRB trends, including quorum/recess appointment issues, portend for higher education cases (including the currently pending Park Point case), and what is management’s perspective on such matters generally? (Nicholas Anastasopoulos, Esq., Mirick O’Connell, Labor, Employment and Employee Benefits Group and Higher Education Group.)
- 4) What have been the recent accomplishments, at Duquesne University, in regard to the Adjunct Faculty Association (United Steelworkers), and what are its prospects moving forward, in light of legal challenges in based largely on an alleged religious exemption to the NLRA? (Robin Sowards, PhD, Adjunct Faculty Association (USW), Adjunct Lecturer, Duquesne University)

### **Plenary: The Kaiser Permanente Model**

This panel is about union-management partnerships that work, the best example being the Kaiser Coalition of Unions (addressed by Chuck Columbus and John August), and how higher education might learn from the best examples and use them to inform our union and administrative work (addressed by Adrienne Eaton).

### **New Technology and Higher Education Overview**

#### **Massive Open Online Courses (MOOCs) and Other Digital Initiatives**

This presentation (the overview) and panel will explore various technology issues as they affect faculty members, students, and unions. We will explore uses of technology in both face-to-face and online instruction and the expectations, consequences, costs, effects on student performance, cultural issues, and implications for collective bargaining of MOOCs and other technological innovations.

### **Challenges for Adjuncts who Negotiate Contracts**

Format for the session will be a discussion of the issues facing adjunct faculty in positioning themselves in collective bargaining contracts. The moderator will pose questions to panel members for response and engage the audience in subsequent interactions. Topics to be touched on include: job opportunities, salary and benefits considerations, quality instruction perceptions and realities, and the role in shared governance will be among the topics for consideration.

### **Post-Confrontational Collective Bargaining Models; Successful Negotiations: Successful Contracts - Facilitators Useful?**

Commissioner Conrad Bowling, Federal Mediation and Conciliation Service: Interest Based Bargaining (IBB) introduces labor and management to a mutual gains approach to conducting contract negotiations. Participants are taught to negotiate to satisfy the interests of the parties rather than their positions. This approach emphasizes issues rather than personalities, identifies the interests of both parties, and then develops options to satisfy those interests. These options are then evaluated using a mutually agreed upon standard.

Because the philosophy of interest based bargaining is so different from that of traditional bargaining, it is essential that all parties understand how the process is different and accept that this will affect the way negotiations are conducted. Organizations that are good candidates for interest based bargaining are those that have already established a solid labor-management relationship. In general, organizations that are good candidates for IBB have the following characteristics:

- Use problem-solving techniques on a daily basis
- Maintain an open line of communications between labor and management
- The partnership between labor and management is not only in the contract, but also in day-to-day operation of the Institution
- Formal processes for shared decision making are in place
- Management accepts and respects the union

However, during my early assessment of Eastern Illinois University (EIU) and the University Professionals of Illinois (UPI), it did not appear they possessed all the necessary characteristics to conduct successful IBB negotiations. During the first phase of the process, the group went through the forming and storming stage but quickly moved to norming and performing. As a neutral, it was a true pleasure to observe the groups strong willingness, desire, and commitment with reasonable expectations for the process. The transformation and paradigm shift for these individuals was the true **success!**

Ellen Horsch, Vice President, Administration, Michigan Technological University (MTU): plans to share MTU's adoption of Lean methods for continuous improvement and its impact on labor-management relations. In 2008, Michigan Tech adopted the Lean model for continuous improvement. I will briefly describe the Lean concept. While Lean has often been associated with the manufacturing industry, we have successfully expanded the practice to improve labor-management relationships at MTU. This topic should fit in nicely with the rest of the panel discussing "Successful Negotiations: Successful Contracts-Facilitators Useful?"

In the fall of 2011, MTU was awarded a \$55,000 grant from the Federal Mediation and Conciliation Services Labor-Management Cooperative Grant Program to support a Continuous Improvement Labor-Management Advisory Committee. The new labor-management committee facilitated the development of a campus-wide continuous improvement program to improve labor-management relations and staff participation in enhancing work environments. The committee focused on program development, outreach, and training. New campus facilitators, consisting of at least 50 percent unionized members, were integral to providing campus leadership and developing an outreach/training program for supervisors and managers. The committee, both labor and management has been proactive in publishing results and recommendations, and by presenting at conferences, workshops, and meetings of interested professional and labor organizations.

One of the key components to MTU's success is the availability of Lean facilitators, key personnel at the University who have received training in Lean concepts and tools. The Lean facilitators serve as leaders to a team as it seeks to find ways to solve problems using Lean techniques. The intention is that facilitators be available to coordinate events across campus, in particular for areas outside their own departments so they can provide an outside perspective to the team. The guidance of a Lean facilitator has been successful in identifying and solving problems, in particular those covered by collective bargaining negotiations.

The Lean method as it is applied at MTU is an innovative approach for unionized staff and management to work together to study and develop joint approaches to achieving organizational effectiveness that enhance MTU's competitiveness and economic stability. By applying the Lean model, MTU has found success in implementing improvements at the operational level as well as demonstrated enhanced relations between members of labor unions and management staff.

### **Tenure**

The panel discussion will begin with Mr. Zinnanti giving a short introduction of each panelist. He will then briefly describe the history of tenure and present several points that advocates and opponents of tenure have used in their literature. Each panelist will give a short description of their experience with tenure, as well as their view on the state of tenure and where it is heading. Mr. Zinnanti will facilitate the discussion by asking questions to the panel on tenure in the context of power dynamics between school administration and faculty, its economics, the contract negotiation and bargaining process, and the role or effect that post-tenure review will play in the years to come. We anticipate an active dialogue between the panelists and to stimulate the audience to participate through questions and comments to the panelists.

### **Workshop: Bargaining Basics (CLE Credit)**

This workshop will introduce fundamental principles of collective bargaining, identify typical bargaining styles and describe strategies for improving negotiation skills. Participants will engage in activities to practice strategies presented during the workshop.

### **Rising Tuition and Diminishing State Funding Overview**

The need for a college education is more important than ever, but the barriers to obtaining a degree continue to mount. In recent years, dramatic declines in state support for higher education have been accompanied by sharp increases in tuition. This presentation looks at trends in these two areas as well as the spending patterns of colleges and universities. Given increased competition for state funds, discussions of college affordability need to consider how higher education institutions spend their money and where spending can be reduced without hurting quality.

### **What is Driving Tuition Higher? Tuition and Budgets and Collective Bargaining**

The panel will discuss the effect of collective bargaining on university budgets (and, of course, indirectly on tuition) with presentations from both labor-side and management-side speakers. One point of contention will be how much universities do, and should, spend on instruction as a piece of their budget.

### **New Technology Challenges in Higher Education**

The delivery of education is changing rapidly, and higher education must be able to evaluate and prepare to adjust. This panel will provide a multi-layered look at public higher education from an institutional context, from a for-profit bubble view—bursting or expanding—, and from a legislative maze to the attempts to disaggregate the teaching functions.

### **Workshop: Interest Based Bargaining**

In this IBB workshop, Tim Fitzgerald will review the different models of negotiations: the traditional model; the concessional model; and, the interest-based bargaining model. He will also illustrate the different styles of negotiations. Tim will then provide an overview of the “elements” of the Interest-Based Process: issues; stories; interests; options; standards; commitment; and, alternatives. Ample time will be provided for a question and answer session, as well as for discussing the positives and negatives of Traditional and Interest-Based negotiations and looking at what the research says about each model.

### **Quasi-privatization of Public Universities: Are We Inching towards Charter Universities?**

Facing the reality of dwindling resources to support public higher education, and given that the trend toward rising tuition rates has been called unsustainable by many, institutions are exploring alternative ways to keep afloat. Are quasi-privatization and/or the charter school model viable options to pursue? Through presentation and Q&A, this panel will explore the pros and cons of this hot topic.

Patrick McLaughlin, Chair, OEA Higher Education Advisory Committee (HEAC), Lakeland Community College, Kirtland, Ohio: in the spring of 2011 HEAC developed a position paper on Governor John Kasich's plan for implementing charter universities in the State of Ohio. Patrick's remarks in this panel will draw upon the content of that report to assess its import and to reflect upon its impact on academic freedom, collective bargaining, and access and affordability.

### **Post-Confrontational Stage: Changing Internal Dialogue and External Perception**

Bill Perry, President, Eastern Illinois University, proposes the “post-confrontational stage” in a very broad context and believes public universities cannot present a confrontational face to the public and

build all-important citizen support in the political process. To move to a post-confrontational stage requires that we develop internal ways to communicate about all issues of importance to the university's faculty, staff, and students where we work to find common ground. He believes issues can be strongly debated and be contentious, but that confrontation is unproductive. In terms of collective bargaining, this means in the first instance the use of interest-based bargaining. In terms of day-to-day work it means we should honor our bonds of common interest and cause. In terms of issues that may arise between contract negotiations this means discussion first, rather than immediate movement to grievance or unfair labor practice complaints on the part of either bargaining unit or administration. The public's regard for higher education is not currently strong. A significant slice of public perception is that public higher education costs too much, takes too long, creates too much individual debt, and does not deliver on the promise of the American dream. Presenting a "confrontational face" to the public as we complete our missions and do our work may decrease public support for our efforts to garner support for higher education from state and federal sources. To restate in a positive way, a united front builds public confidence that the university is confronting the external forces impinging on its common cause, focusing on creating societal good and value to the individual student, thus offering public assurance that we are making good on our promise to serve our students and society with distinction.

The comments of Brian Fijal, former Associate VP Administration, University of Manitoba and consultant for CUPA will be based on the Canadian context which does not seem to him to be in a post confrontational era of labor relations. Relationships between the parties are often far more collaborative during the life of a collective agreement but can shift dramatically to a more confrontational approach once bargaining is about to start. To move past confrontational behaviors in collective bargaining, one needs to understand those things that contribute to it. Then, strategies can be developed for overcoming a confrontational past in labor relations. From Brian's experience, some of the collective bargaining elements contributing to a more confrontational approach are: labour relations legislation, strikes and lockouts as part of impasse resolution, the economic environment and its impact on expectations and competition. Brian will also make reference to interest based bargaining as part of an overall strategy to overcome past confrontational approaches.

Post-secondary institutions across Canada and the United States enjoy a high degree of public support, in part, because those institutions are seen as important players in the evolution of a modern economy and a progressive society. Against that backdrop, it is tempting to think of post-secondary workplaces as somehow different from the average workplace. Is the post-secondary workplace in some way immune from the real life stresses and strains that play out every day in workplaces across North America? The reality, as many faculty association representatives acknowledge, is that post-secondary work environments have to deal with all the real life dynamics found in any workplace, and to do so effectively, our institutions will rely increasingly on the infrastructure created through collective bargaining to ensure that those dynamics balance the interests of all participants. The success of that balancing act requires, at the outset, an honest assessment of how power within the institution is shared, what, if any, boundaries exist in the development of that power sharing and how participants in the collective bargaining process sustain the labour relationship beyond the bargaining table and the terms of their collective agreement. Cindy Oliver, President, Federation of Post-Secondary Educators of British Columbia, expects to discuss how these dynamics are changing within her institution.

### **Accountability, Metrics, Accreditation and Collective Bargaining Overview**

Current federal policy and practice are challenging higher education and accreditation, especially in the area of public accountability. These public accountability expectations include, for example, attention to student achievement, information to the public, what the counts as "quality" to the federal government,

the changing role of accreditation and emerging “extra-institutional” undertakings such as Massive Open Online Courses. What is the impact of all of this on faculty, colleges and universities? What do the academic and accreditation communities need to do to address the challenges? Alternatively, can the challenges be safely ignored?

### **Performance Metrics, Assessment as Components of Collective Bargaining Agreements**

Closing the achievement gap, increasing graduation rates, remediation for students, analyses within course success rates, demands for student learning outcomes, accreditation issues all have an impact on colleges and universities. This panel will explore current and potential impacts and their implications for collective bargaining. Our panelists will share their experience and thoughts in an interactive session.

### **Labor and Employment Relations Association: Adjunct/PT Faculty Unions in Private Higher Education & Graduate Student Organizing following the NLRB’s Decision in the NYU Case (CLE Credit Panel)**

In 2000, graduate students at New York University successfully argued for recognition as employees under the provisions of the National Labor Relations Act (NLRA) and achieved notoriety as the first private university students in the nation to organize for collective bargaining purposes. *New York University*, 332 NLRB 1205 (2000). State labor laws have long recognized the right of graduate students and research assistants at public colleges and universities to organize and bargain collectively. However, the National Labor Relations Board (NLRB) had consistently held, for at least twenty-five years prior to the NYU decision, that graduate students and research assistants who “perform services at their educational institutions are not employees” pursuant to the NLRA’s definition. *St. Clare’s Hosp. and Health Ctr.*, 229 NLRB 1002, 1007 (1977). In 2004, the Board returned to this interpretation of the Act with its *Brown University* decision. *342 NLRB 42* (2004). Last year, graduate students at New York University returned to the Board seeking recognition as employees under the Act. Union organizers and higher education administrators are now anxiously awaiting the Board’s decision on graduate student employee status in collective bargaining. Like graduate students, many states have recognized the right of adjunct and part-time faculty to organize and bargain collectively in the public sector. Adjunct and part-time faculty also enjoy bargaining rights and protections in several full-time, tenure track faculty bargaining units. However, organizers have been seeking to create stand-alone part-time and adjunct faculty bargaining units in the private sector in greater numbers in recent years. In particular, unions have employed new tactics including organizing members across a number of institutions across a metropolitan region to address the transient nature of employment for adjunct and part-time faculty members. These efforts call for a review of the state and federal laws impacting organization drives, and the practical concerns for unions and administrators in addressing the needs of employees and institutions.

### **Workshop: Addressing the Heart of a Grievance**

The grievance procedure is a negotiated process by which the Employer and the Union resolve alleged contract violations. It forces compliance to the terms and conditions of employment as proscribed in the Collective Bargaining Agreement as negotiated by the parties and serves to adjudicate differences that arise in the interpretation of the agreed to CBA. This workshop will take participants through the dispute resolution process step by step, from investigating the initial complaint through binding arbitration. Participants will gain insight from an experienced Union representative and a practicing Arbitrator on how best to avoid going to arbitration and if a hearing is required offer tips on witness prep and investigations.

## **Collaboration and Creativity: Building Relationships and Exploring Innovative Approaches in Response to Accountability Challenges**

### **(previously titled: Accountability and Collective Bargaining: Where (and How) Agreements Have Been Achieved?)**

This panel will provide an overview of the accountability challenges and issues facing higher education emerging from state and federal policy and practice, including what the academic community needs to do to address the challenges. The discussion will include accountability as this relates to student achievement, faculty evaluation and compensation, information to the public, what counts as “quality” in higher education, who is now judging academic quality, the changing role of accreditation, and the impact of all of this on faculty, colleges and universities.

### **New World of Benefits: Healthcare, Pensions**

Healthcare costs in the United States are higher here than anywhere else in the world and outcomes are at best mediocre. How might this change in the next few years given the Affordable Care Act? An answer to that question requires a review of what the ACA was designed to do. This presentation will generally review the major elements of the ACA and focus on one particular element this is poorly understood: Health Exchanges. The presentation will review what they were designed to do, how they will operate and what challenges and opportunities they might present to Institutions.

### **Perspectives on Improving the Working Conditions for Non-tenure Track (NTT) Faculty**

In this session, Peter Schmidt will provide an overview of the challenges faced by non-tenure track faculty that he has written about over the while at The Chronicle. Maria Maisto will describe the work of the New Faculty Majority to alleviate these challenges, working with non-tenure track faculty to organize within and outside of unions. Adrianna Kezar will describe the Delphi Project and its efforts to complement the NFM and union work by trying to work with stakeholder groups like accreditors, academic leaders and policy makers to alter working conditions for NTT faculty. She will also present resources created from the project that can be used by union leaders to support change.

### **Faculty Unions in the Private Sector: Retrospective and Prospective Views**

This panel, comprised of three management-side attorneys with more than 50 years of cumulative experience representing private universities in labor relations, will discuss the private-university experience with faculty unions and collective bargaining. They also will prognosticate on the prospects for faculty unions in the not-for-profit, private-university arena. Topics will include reconciling collective bargaining with traditional models of governance and tenure; unique aspects of the unionization experience at Catholic institutions; the impact and aftermath of the Yeshiva and Great Falls University cases; the evolving role of the National Labor Relations Board, and the potential impact of recent developments at the NLRB.

### **Annual Panel. Legal Issues in Higher Education: Review of Decisions, Cases (CLE Credit)**

The Legal Update Panel includes a review of the major labor and employment decisions from the past year and their implications for college and university administrators, faculty, and employees. This covers, among other things, cases decided by the National Labor Relations Board and state and federal courts on labor matters, such as employee rights, collective bargaining, organizing activity, and unfair labor practices. The session will also include a review of the latest cases on academic freedom, discrimination law, and related topics. Panelists will review emerging trends in all these areas and take questions from the audience.

**Workshop: Can't We Just Get Along?**

Generational differences provide insight into group dynamics, communication and organizational development. Each generation interacts with the world through a particular set of a childhood and coming of age filters explaining why we respond differently to the same set of circumstances. This workshop explores the changing tide between the two most recent generations in the workforce: Gen X and Millennial(s).