

## Union Organizing Is Surging On College Campuses

By **Braden Campbell**

Law360 (November 1, 2022, 8:20 PM EDT) -- Union organizing is back in full swing on private college campuses with the COVID-19 pandemic receding and a hostile Trump-era National Labor Relations Board majority in the rear view.



Yale and other schools have seen a resurgence in union organizing among graduate students. (iStock.com/f11photo)

An organizing wave among graduate teachers and researchers has resumed after students pressed pause under the last administration for fear of providing the Republican-led board a chance to toss the 2016 precedent that empowered them to organize, with students at Yale University and Boston University seeking elections in recent weeks.

This graduate resurgence comes amid a new organizing boom among resident assistants, cafeteria workers and other undergraduate student workers at schools including Kenyon College and Dartmouth University.

"There's been quite a groundswell in this area," said William Herbert, the head of the National Center for the Study of Collective Bargaining in Higher Education and the Professions at Hunter College.

The wave of unionization among graduate students at private schools dates to the mid-2010s, when several groups moved to unionize amid a policy shift at the NLRB, which oversees organizing in the bulk of the private sector.

In 2016, an NLRB majority comprising Democrats appointed by former President Barack Obama green-lit a representation election among graduate teachers and researchers at Columbia University. The Columbia majority held that teachers and researchers **are union-eligible "employees"** under the National Labor Relations Act, reversing a 2004 decision involving Brown University that deemed them ineligible because their work is linked to their education.

Graduate students at numerous schools, including Harvard University and Yale, sought elections in the weeks and months that followed the decision. But many schools resisted following the presidential election, daring fledgling unions to file election petitions or refusal-to-bargain charges that would have given the board under President Donald Trump a chance to reconsider the Columbia decision. Graduate students avoided the board in favor of directly pressuring their schools for recognition, with **mixed success**.

With that threat gone under President Joe Biden, organizing has picked back up among graduate students. Instructors and researchers at the Massachusetts Institute of Technology filed for an election in early February, followed days later by grad students at Clark University, and in March by postdoctoral fellows at the Icahn School of Medicine at Mount Sinai. The union won in each.

Graduate students have filed for elections at four more schools since September: Worcester Polytechnic Institute, Brown University, Boston University and Yale.

Donald Schroeder, a partner at management-side Foley & Lardner LLP whose practice includes advising employers on unions, said the organizing resurgence was expected. The Trump board has been replaced with a new regime that aims to encourage organizing, removing a barrier for a group with ample reasons to act.

"If you look at the historical gripes that graduate students have put forward, whether it was very low hourly rates, lack of health benefits, really having the opportunity to use the university or college's resources and labs in a way that allows them to have access to the best equipment, you can understand why this group or this sector is ripe for organizing," Schroeder said.

The effort at Yale represents the revival of a long effort to organize. According to the union's website, graduate students at the university have organized in some form dating back to the 1980s. In 2016, students sought elections to organize unions comprising different university departments, but abandoned those efforts when the Trump board arrived. The effort relaunched last fall.

Abigail Fields, a fifth-year Ph.D. student in the school's French department, said she was drawn to the union effort by frustrations with her work as a graduate language teacher. While her job description lists a 20-hour weekly commitment, being the instructor-on-record for a session that meets five times a week requires many more hours of lesson planning, grading and organizing, she said.

"I just felt very lost as I was teaching," Fields said. "I didn't feel like I was getting adequate support, adequate training, and I felt without a [union] contract ... there was nothing for me to do. This is an experience that I've heard repeated by my other co-workers."

The union had signed cards of support from more than 3,000 members of the proposed 4,000-worker bargaining unit when they filed their petition Oct. 24, Fields said. Yale has not yet responded to the petition.

This period has also seen a surge in organizing among undergraduates. Students at Kenyon University filed an NLRB petition last October seeking an election among all 600 paid student employees there. Dining services student workers at Dartmouth University sought an election in February, and students in the department of residential life at Wesleyan University secured voluntary recognition in March. In April, students at Grinnell College petitioned for a vote to expand an existing union of dining workers to cover all student workers on campus, and the last several weeks have seen students at Barnard College and Mt. Holyoke College seek to form unions of residence assistants.

These undergraduate campaigns have so far gone smoothly for organizers, with one exception: Kenyon, where the administration is contesting the students' eligibility to unionize.

Kenyon urged the NLRB's Cleveland office to dismiss the petition shortly after the students filed, arguing that they can't unionize because their work is connected to their educations, and that releasing students'

contact information to the union as required in NLRB elections would violate federal educational privacy law.

The students have balked at the school's protests. Isabel Keener, a junior who works in the school's writing center, recalled chaos in the library when the school's vice president for library and information services had to fill in for hourly staff during two strikes.

"You had Ron Griggs ... come down and utterly fail to help anyone with their issues," Keener said. "When we've had strikes, it's really inhibited this school from functioning. ... We really do run this school."

The NLRB has yet to tell the Kenyon students when it will hold a hearing on these issues. While they're eager to clear this hurdle and get to an election, organizers aren't sweating, they say.

"The more time they delay our union, the more time we have to consolidate and build unity with our workplaces," said senior Lily Beeson-Norwitz, who works in the writing center and in admissions.

Herbert, the Hunter College professor, noted that undergraduate student workers share many of the same concerns as their graduate counterparts, including low pay and a feeling of weakness relative to powerful administrators. In both groups, the trend also reflects growing union support among younger generations, he added.

"Part of what's transpiring today ... is really a new, increased support that's never been seen among younger people, and an understanding of the nature of the labor movement and unions," he said. That gives the trend legs, though the possibility of another change to NLRB case law looms as a threat, he said.

But as momentum continues to build, that ship may sail, Foley & Lardner's Schroeder said.

"It's already happened, and now there's going to be some level of continued activity over a period of time," Schroeder said. "I think that it'll be hard to unring the bell."

--Editing by Abbie Sarfo.

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