



September 10, 2015

Dear faculty at the University of Washington

As President of our AAUP chapter and faculty union at the University of Oregon, it is my honor to share with you some of the reactions and responses we faced during our union organizing campaign in 2009-2011. In the spring of 2012, faculty at the University of Oregon voted to authorize our union, United Academics, to represent us in collective bargaining. We ratified our first contract in October 2013 and we have just concluded negotiations for our second contract. I must say, things are looking up at the UO.

We are a faculty-formed, faculty-run democratic union representing about 1900 tenure-related and non-tenure track faculty at the University of Oregon. Most of the initial fears and uncertainties expressed by some faculty and many administrators during our organizing drive have disappeared. At the time, the concerns of those resistant to the union were expressed in myriad ways. I outline some of these below with the hope of providing an example of how reactions to the changes we sought were articulated. You may find parallels at UW.

Meanwhile, American public institutions need a boost and faculty need a stronger voice to affirm what we do professionally and to protect these cherished institutions of higher learning for generations to come. I wish you the best in all of your endeavors,

Michael Dreiling,
President, United Academics, AAUP/AFT Local 3209
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University of Oregon

Faculty are colleagues, not employees - Some in the administration and some tenure-track faculty argued that forming a union was relinquishing the faculty's governance role and reducing faculty status from partners with administration to employees of the administration.

Although there were strong arguments to be made that faculty had long ago ceased to be in true partnership with the administration, United Academics chose to make a constructive argument, reasserting our role in shared governance and emphasizing our belief that a union would in fact strengthen the University Senate. The Collective Bargaining Agreement (CBA) that we ultimately negotiated justified our belief and our arguments. Under the CBA, shared governance was reinforced with mandates that each college and unit have clear, written governance procedures that guaranteed faculty involvement. Moreover, we expanded shared governance rights and responsibilities to all faculty, including non-tenure-track faculty.

As a result of unionization, we have witnessed a revitalization of our University Senate. Last year the senate resolved to appoint a formal liaison with United Academics who then reports quarterly to the Senate Executive Committee. Many of the formal and informal consultative roles offered to the senate leadership in working with top administrators have now also been established with union leadership. For instance, I meet quarterly for lunch with the university president and am frequently consulted regarding faculty names to be considered for a

wide range of university hiring and administrative committees. Our CBA also includes a consultative article assuring that the channel of communication between the university president and the union president remains open to solve difficult problems.

Shared Governance – In some early reactions, administrators at the UO warned that the established institutions of shared governance would no longer be valid or viable if the faculty unionized. Indeed, the university’s General Counsel went so far as to draft [a secret legal opinion](#) advising the former president that if the faculty unionized, they would be ceding all shared governance authority. The brief went on to recommend that the president abolish the current university senate and define a much more restricted role for faculty involvement in university governance. This opinion is easily refuted with the examples of a number of major universities across the country, including the SUNY system, Rutgers, and Florida State (and now the University of Oregon) that have maintained both collective bargaining and formal senate systems. At the University of Oregon, most faculty on our campus would agree that unionization has strengthened and protected shared governance while also revitalizing the academic governance system of the senate.

With hindsight, we can see that some members of the administration lacked the imagination to re-envision shared governance at this critical historical moment when public research universities are reeling in response to huge systemic changes, not the least of which is the surge in employment of non-tenure-track faculty. Lacking any, or having very little, governance roles for NTTF ignores the vital perspective and intellectual contributions that non-tenure-track faculty possess and can readily offer to our academic units and institutions. Our CBA expands NTTF and TTF governance roles. Further, weekly meetings of union representatives with Academic Affairs, recognizing our status as both faculty and professional employees, have achieved a new level of shared governance at the UO.

(Example from our CBA) ARTICLE 3. SHARED GOVERNANCE

Preamble

“Oregon state law and the University of Oregon’s original Charter, as well as long established practice, recognize the vital role of shared governance among the university’s governing board, president, and faculty, as a guarantee of the freedom to teach and engage in research, creative activity, and scholarship upon which excellence in higher education depends. In that regard, it is mutually desirable that the collegial system of governance be maintained and strengthened so that the role of the faculty will be similarly maintained and strengthened independent of collective bargaining.”

In sum, faculty unionization did not curtail shared governance, but rather created specific mechanisms to strengthen, re-imagine, expand, and protect the concrete institutional practices of shared governance at the UO. I would encourage the UW President to reach out to one of UO’s Senior Vice-Provosts to discuss how unionization and shared governance can work.

Finally, I fully expect to serve in an administrative capacity at some point in my career. I see no reason why the valuable process where senior faculty may be appointed into administrative positions (and rotate back into the faculty) precludes a transparent and binding contract covering our professional work conditions. Sitting at the table to solve problems through collective bargaining is not antithetical to shared governance; it can embody that principle.

Preemptive Raises – Some tenure track faculty at UO received raises in early 2011, just as our union organizing committee prepared for a certification election to unionize. These raises, distributed in a somewhat clandestine fashion, were later referred to as the “secret Lariviere” raises. These raises came on the heels of a 3-

year salary freeze and were given only to some tenure-track faculty. We did not see another raise until we successfully negotiated our first contract, where we urged retroactive pay increases to 2012 with new salary dollars kicking in for 2013-14. Our recently negotiated contract now extends annual raises over a total of 5 consecutive years.

Less money/stability – A common tactic used by the University of Oregon administration was to present themselves as neutral and concerned when informing faculty that “anything” can happen in bargaining – salaries could even go down!

Of course, the employer would actually have to bargain for cuts to salaries before salaries could go down, so this is only a real possibility if the employer demands cuts. All the negatives that “could” happen during bargaining would be at the insistence of the employer. Plus, without a union, salaries could go down at any time without any negotiation at all. Collective bargaining puts faculty at the table to responsibly solve problems affecting faculty, including issues relating to compensation.

Layoffs – The UO argued that there was no “extra” money on campus, so any increase in salaries would almost certainly have to result in layoffs or fewer hires.

We bargained for raises of 11.75% over two years in addition to stabilizing promotion raises and large increases to minimum salaries in our first contract. There have been no layoffs on campus and our bargaining unit continues to grow.

Loss of collegiality – A common argument when higher education workers look to form a union is that a union is a “third party” that will interfere with a faculty member’s freedom to talk with his or her dean or department head to work out issues .

This is not the case at the University of Oregon. United Academics frequently recommends that faculty talk with their deans when they have a problem in the workplace. Knowing that the Collective Bargaining Agreement has established grievance procedures to fall back on should they be needed gives many faculty, especially non-tenure-track faculty, the confidence to approach their dean or department head to talk about issues or problems on an informal basis.

Mediocrity – The most frequent objection to a union we heard during our organizing campaign was that a union would lead to mediocrity by protecting faculty who were not excellent and making it difficult to get rid of them.

United Academics made it clear from the beginning of our campaign that we stood for excellence in research and education. We bargained for clear standards and guidelines for promotion, tenure, and contract renewal for non-tenure-track faculty. We have argued, at the table and during policy development, that we want high standards and tough reviews. We have insisted on transparent unit-level merit policies, developed by faculty, to guide the distribution of merit raises. We genuinely want an excellent faculty and our actions and rhetoric reflect this value.

Ironically, it was the UO administration who argued that conducting reviews for adjunct faculty – over 25% of the faculty at the UO – was too much of a burden for the administration and was unnecessary. They also acknowledged that they had no idea if the unreviewed faculty were performing up to standards. It was the union that insisted that ALL faculty undergo a thorough review before being issued a new contract or receiving a promotion.

Union will protect bad teachers - This is the standard knock against unions, especially teachers' unions, that they make it impossible to fire someone who should not be in front of students.

We bargained for a very simple grievance procedure that protects faculty against unjust discipline or dismissal. It is no more difficult to discipline or fire a faculty member at the University of Oregon than it is to discipline or fire any worker in a unionized environment. Our Collective Bargaining Agreement simply states that no faculty member may be disciplined without just cause. We also acknowledge that the university is a unique working environment and have agreed that no arbitrator can override the university administration's (department head's, deans', or provost's) *academic* judgment. In cases of termination for poor performance, an arbitrator can review whether the university followed the proper procedures, or if evidence of discrimination or retaliation occurred, then the arbitrator can order further review of the decision. The administration was clear that they did not want a non-academic to interfere in the academic mission of the university and we agreed.

Strike – Of course, the notion that the union could “force” faculty to go out on strike was a common talking point. The “strike” talking point is a tough one to deal with when it comes up during organizing conversations because it often really means that the faculty member does not want any kind of labor action among the faculty at all.

No faculty member can ever be forced to go out on strike. Whether or not to strike is always a personal choice that each individual will have to make. Faculty who make the “strike” argument will often then fall back on: “Well, I will be pressured to go out on strike” or “But people will be mad at me for not going out on strike.” Yes, those things are true. If the faculty, as a whole, have been pushed to where a large number want to go out on strike, then, yes, there will be some passion and pressure around the issue.

But strikes only happen when the majority of faculty agree that they are necessary. A good union will make sure that a strike is a last resort and will make sure to have the support of a large majority of the faculty before taking action. There will be months of conversation about the issues, about tactics, about possible settlements. A good union will make sure that all faculty are heard on all issues leading up to a strike and dissenting voices will be respected. Much like a controversial Senate decision, everyone should be allowed to honor his or her conscience and speak to what they think will be best.

Anti-Union Public Relations and Outside Law Firms- Initially, under the interim President Bob Berdahl, the University of Oregon claimed to support the right of all employees to unionize, including faculty. There was, however, an initiative by the Office of General Counsel and the President to spend hundreds of thousands of dollars to undermine the faculty unionization drive. Many faculty suspected this was occurring, and on the eve of our elections it became clear that it was. It was unfortunate that the administration went in that direction. With our resounding election victory, subsequent public records reveal that the Governor of Oregon was advised by one of his chief policy advisors to talk with the UO president about these outside, anti-union law firms and their recommendation to “process it to death” by appealing our election victory (see below).

Message

From: John Kitzhaber [REDACTED]
Sent: 4/10/2012 8:55:43 [REDACTED]
To: MURDOCK Jan * GOV [REDACTED]
CC: MJO JKT * GOV [REDACTED]
BCC: MURDOCK Jan * GOV [REDACTED]
Subject: FW: U of O information

Please print out for my meeting with Berdahl tomorrow. Thanks JK

From: SHEPARD Duke * GOV [REDACTED]
Sent: Monday, April 09, 2012 10:04 AM
To: John Kitzhaber
Cc: ROBINHOLD Curtis * GOV
Subject: U of O information

Governor:

I have learned via AFT that U of O has had on contract since February 1, 2012 a large out-of-state law firm with an anti-union practice. The firm – Curiale, Hirschfield, Kramer – is regarded by labor as a “union buster”. In my estimation there is no need for an out of state firm such as this – whose expertise is not with the Oregon Public Employee Collective Bargaining Act – if U of O is simply concerned with the technical issues of tenure track faculty in the unit (they have a well know, in-state firm for those questions). The only value-added of such a firm would be for an aggressive anti-union effort.

Notably, despite U of O’s indication to you, me, and legislators that they are only concerned about including tenured faculty in the unit, the filing before the ERB challenged the make-up of most of the unit. They are even quoted in the media as such (OPB) :

“According to university attorneys, U of O’s objections would block about 1200 of the 1900 faculty from joining the proposed union.”

The labor movement – because this has gone beyond AFT now – sees this as an indication of a bigger strategy to draw this process out through ERB and undermine the effort of the union in a classic anti-union “process it to death” campaign. This is a national issue for AFT.

I’ve been told that both AFT and the AFL-CIO are going to revisit their positions on the U of O board question.

I still believe that U of O will lose their challenges based on past practice and case law.

Duke

Duke Shepard
Policy Advisor
Office of Governor John Kitzhaber