

University of Wisconsin System
FAQ on Faculty and Academic Staff Collective Bargaining Legislation
Revised 1-20-10

The 2009-11 budget legislation created a new subchapter of the state labor relations law authorizing faculty and academic staff in the University of Wisconsin System to join a union for the purposes of bargaining collectively with the UW System. The legislation can be found in [sections 111.95 – 111.9993](#) of the Wisconsin Statutes. UW System and the Board of Regents support each employee's right to choose whether to be represented by a union for purposes of collective bargaining. To this end and to assist faculty and staff in understanding the legislation and related issues, UW System Administration has collected the most frequently-asked questions and is providing answers in this document. This document will be updated as additional questions emerge.

A. ENABLING LEGISLATION

1. Is the legislation enabling faculty and academic staff to bargain collectively new?

The legislation is new, but the idea is not. Bills affording faculty and academic staff the right to bargain collectively have been introduced in several prior legislatures but were not enacted.

2. What does it mean for the Board of Regents to establish a collective bargaining capacity as has been directed by the enabling legislation?

The Board of Regents is charged with the negotiation and administration of any collective bargaining agreements. The Board of Regents must ensure that adequate staff and resources are available to carry out its statutorily mandated responsibilities.

B. AUTHORIZATION CARDS AND UNION ELECTIONS

3. Are all faculty and academic staff automatically part of a union now that this legislation has passed?

No. A union only represents bargaining units in which it has obtained a majority vote in a duly authorized election conducted by the Wisconsin Employment Relations Commission, or WERC.

4. What does it mean for the UW System Administration and Board of Regents to be neutral on collective bargaining for faculty and academic staff?

UW System and the Board of Regents support each employee's right to choose whether to be represented by a union for purposes of collective bargaining.

5. What is the Wisconsin Employment Relations Commission?

The Wisconsin Employment Relations Commission is the state agency charged with administering public sector labor and employment relations matters across Wisconsin. WERC administers elections for representation, conducts mediations, and issues administrative decisions in labor relations disputes.

6. What is a union authorization card?

A union authorization card is a card indicating that an employee wishes to be represented by a particular union. Union authorization cards, when signed, may be submitted to the WERC with the union's petition for an election in order to demonstrate that there is a sufficient showing of interest in union representation to require an election.

7. Do I have to sign a union authorization card?

It is your choice. If someone asks you to sign a union authorization card, you may sign or refuse to sign, without fear of reprisal from either the union or your employer. If you have questions about the signing of an authorization card, contact the WERC at (608)266-6930 or visit its website at <http://werc.wi.gov/>.

8. Will I be asked whether I have signed a union authorization card by my employer?

No. Your employer will not ask you whether you signed a union authorization card.

9. What happens when I sign a union authorization card?

If at least 30% of the eligible employees in a bargaining unit sign an authorization card, the union may petition the WERC to conduct an election in that bargaining unit.

10. When may an election be held?

An election regarding a particular bargaining unit may be held only after a union files a petition with WERC which demonstrates a 'showing of interest' on the part of unit employees in being represented by a union. Sufficient interest may be demonstrated if at least 30% of the employees in the bargaining unit sign union authorization cards indicating their desire to be represented by a particular union.

11. If WERC decides an election should be conducted, what is the process?

The WERC administers such elections. If you have questions contact the WERC at (608) 266-6930 or visit its website at <http://werc.wi.gov/>.

12. What will the ballot in a union election say?

Under the legislation, the ballot in the election will ask: “Shall the employees of the (appropriate bargaining unit) participate in collective bargaining?” If more than one labor organization has demonstrated a sufficient showing of interest, the ballot will contain a second question asking: “Which labor organization do you favor to act as representative of the employees?”

13. Who determines the outcome of the election?

Only those employees in the bargaining unit who vote determine the outcome of the election. If a majority of those employees who actually vote in the election (50% plus 1) vote in favor of participating in collective bargaining, then bargaining will proceed. If only one union has demonstrated the required showing of interest, then that union becomes the exclusive representative of all employees in that bargaining unit, including employees who did not vote. If the election involves more than one union, then the union selected by a majority of those actually voting becomes the exclusive representative of the entire bargaining unit.

C. SUBJECTS OF BARGAINING

14. What issues must be negotiated under a collective bargaining agreement?

Under the legislation, wages, fringe benefits, and hours and conditions of employment are mandatory subjects of bargaining. This means that matters in these categories must be negotiated with the union in collective bargaining.

15. What issues cannot be negotiated under a collective bargaining agreement?

Under the legislation, diminution of faculty tenure rights under s. 36.13, Wisconsin Statutes, faculty and academic staff shared governance rights under ss. 36.09(4) and (4m), Wisconsin Statutes, academic staff rights of appointment under s. 36.15, Wisconsin Statutes, and academic freedom are among the prohibited subjects of bargaining, meaning that they cannot be negotiated in collective bargaining.

16. Would a collective bargaining agreement between the UW System and a union that represents me include all of the current employment policies and administrative rules that are now in place?

Not necessarily. Matters negotiated and agreed to in a collective bargaining agreement on the same subject covered by an existing policy or administrative rule would supersede that policy or administrative rule.

17. How are my salary and benefits determined now?

The Board of Regents currently has the authority to make adjustments to faculty and academic staff salaries to adjust for career progression, major change in duties, competitive factors, and equity. The Board also has the authority to establish and adjust vacation, personal holiday, and sick leave benefits for faculty and academic staff. Annual pay adjustments for faculty and academic staff are currently set by a pay plan prepared by the Board of Regents, and submitted to the Office of State Employment Relations (OSER). The pay plan is then presented to JCOER for approval.

18. How will my salary and benefits be negotiated if I am represented by a union?

Under the collective bargaining legislation, faculty and academic staff who are in a bargaining unit represented by a union will have a contract negotiated with the Board of Regents which would address all salary and benefits. The Board must maintain close liaison with the Office of State Employment Relations (OSER) in its negotiations. Any tentative agreement between a union and the Board of Regents, by law, is subject to approval by the Legislature's Joint Committee on Employment Relations (JCOER), the full Legislature and the Governor.

D. UNION MEMBERSHIP AND DUES

19. If a union is voted in will I have to pay dues even if I did not vote for the union?

Maybe. The answer will depend on the dues structure that is set up by the union and whether a fair share agreement or maintenance of membership agreement is in place.

20. What is a fair share agreement?

A fair share agreement is an agreement between the employer and the union that requires each employee in a bargaining unit to pay a proportionate share of the cost of collective bargaining and contract administration measured by the amount of dues required of all employees. A fair share agreement can only be implemented if put to a referendum voted on by employees in that bargaining unit.

21. What is maintenance of membership agreement?

A maintenance of membership agreement is an agreement between the union and the employer that requires any employee whose union dues are being deducted from earnings as of the effective date of the agreement, (and any new employee hired on or after the effective date whose dues are being deducted from earnings) must continue to pay dues for the duration of the maintenance of membership agreement. Incumbent employees not subject to dues deduction as of the effective date of the maintenance of membership agreement would not be required to pay dues.

22. If I do not join the union will I be able to vote on union contracts?

Maybe. Whether members of a particular union who do not pay dues are allowed to vote on contracts is determined by the union's by-laws and constitution.

E. BARGAINING UNITS

23. What is a bargaining unit?

Under general labor law principles, a bargaining unit is composed of persons recognized by the employer and the union as appropriate for the negotiation of employment issues, and having a clear and identifiable community of interest.

24. Under the UW System collective bargaining legislation, how many bargaining units can be formed?

Up to thirty-one (31). The law allows for one bargaining unit for faculty and one for academic staff at each UW institution, and one UW System-wide bargaining unit for academic staff supervisors. Academic staff members in UW System Administration are included in the UW-Madison academic staff bargaining unit.

25. Can bargaining units combine?

Yes. The law allows for bargaining units to combine, across institutions or across faculty and academic staff, if the members of each affected bargaining unit have a sufficient showing of interest and elect to combine with one another. A 30% showing of interest from each unit is required to petition for an election to combine units. In an election, a majority of those **actually voting** in each unit is required to combine the units.

26. Are department chairs in the bargaining unit?

Yes.

27. Is a faculty member who supervises unionized staff eligible to be in the collective bargaining unit?

Yes.

28. Will all faculty be included in a faculty bargaining unit?

The legislation includes in the bargaining unit anyone who meets the statutory definition of faculty in s. 36.05(8), Wisconsin Statutes, which generally defines faculty as those who hold the rank of professor, associate professor, assistant professor or instructor in an academic department or its functional equivalent in an institution. Individuals holding

University of Wisconsin System
FAQ on Faculty and Academic Staff Collective Bargaining Legislation
Revised 1-20-10

academic staff appointments are specifically excluded from the definition of faculty, as are limited appointees and deans.

29. Will all academic staff be included in an academic staff bargaining unit?

The legislation includes in the bargaining unit anyone who meets the statutory definition of academic staff in s. 36.05(1), Wisconsin Statutes, which generally defines academic staff as those who are professional or administrative personnel with duties, and subject to types of appointment, that are primarily associated with higher education institutions or their administration. Academic staff members deemed to be confidential employees are not included in the bargaining unit.

30. . What is meant by a confidential academic staff member?

A confidential academic staff member is by the nature of her or his job, “privy to confidential matters affecting the employer-employee relationship.”

F. EFFECTS OF ENABLING LEGISLATION

31. How is shared governance affected by this legislation?

It is unclear how shared governance will be affected by collective bargaining. Under the legislation, faculty and academic staff shared governance rights granted by statute are prohibited subjects of bargaining. It is possible, however, that collective bargaining agreements could have an effect on matters traditionally handled through shared governance.

32. Can collective bargaining reduce faculty tenure rights?

No.

33. Could I be furloughed in the future if I become a union member?

Maybe. The answer will depend on the provisions of the collective bargaining agreement negotiated with a particular union.

G. UNIT CLARIFICATION

34. What is a unit clarification petition?

A unit clarification petition is a request to WERC to review certain positions to determine whether those positions are more appropriately placed in a particular bargaining unit. Recently several unions have filed such petitions seeking to include certain unclassified academic staff positions in classified staff bargaining units.

35. What is the UW System's position on the recently filed unit clarification petitions?

The UW System is opposed to the petitions because they would place an employee into a union or bargaining unit without that employee being able to vote.

H. UNION ORGANIZING

36. How does the law protect employees' right to choose whether to be represented by a union?

Under the law, both union and management representatives must refrain from practices that interfere with employees' protected rights to choose whether or not to become union members. In particular, the following conduct is prohibited:

- Threatening employees with discharge or other adverse consequences for joining or assisting a union.
- Treating employees engaged in union activities differently from other employees.
- Promising benefits or improved working conditions if employees vote against a union.
- Misrepresenting anything about the union or unionization.
- Asking employees whether they signed a union card or to identify other employees who signed cards.
- Polling employees regarding whether they would vote for a union.
- Engaging in surveillance of employees to see who supports a union.
- Seeking inside information from employees regarding motives of union representatives or internal union matters.

37. Is it permissible under applicable law for union or management representatives to provide employees with factual information about unionization?

Yes, however, managers seeking to provide employees with information about union issues should consult with their institution or the UW System Human Resources Office first to ensure the accuracy of the information.

38. Is it permissible for faculty and academic staff to discuss among themselves a decision on whether to join a union?

Yes. The UW System and the Board of Regents encourage open and free discussion among faculty and staff regarding the decision on whether to join a union.

39. What are examples of organizing activities permissible in the workplace?

The following are examples of permissible organizing activities in the workplace;

- Distribution of authorization cards to faculty and academic staff as a means to determine a showing of interest in union representation.
- Handing out literature to faculty and academic staff.
- Approaching faculty and academic staff members to set up a time to meet outside work hours to discuss the benefits of joining their union. (Institutions will provide meeting rooms outside regular work hours for union representatives to meet with interested faculty and academic staff.)
- Inviting union representatives to speak to shared governance groups on campus.

40. What organizing activities are not permissible for union representatives in the work place?

Organizing activities or any other actions that cause disruption in the work place are not permissible.

41. To what extent can campus mail be used in organizing efforts?

The United States Supreme Court has determined that under federal law, a union may not use campus mail delivery to communicate with employees it seeks to organize. [*Regents of the University of California v. Public Employment Relations Board*, 485 U.S. 589 \(1988\)](#). However, unions and other groups may use alternative methods of communicating with employees through the use of directory information that is available to the public in accordance with university policies.

42. To what extent can campus email be used in organizing efforts?

Union representatives are able to use employee email addresses to contact employees to the extent those addresses are included in directory information available to the public. Employees' use of email is governed by existing university policy that tolerates incidental personal use.