

# Graduate student workers' rights to unionize are threatened by Trump administration proposal

**Report** • By [Celine McNicholas](#), [Margaret Poydock](#), and [Julia Wolfe](#) • December 19, 2019

Our nation's oldest labor laws give 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. However, in September, the Trump National Labor Relations Board (NLRB/board) proposed a rule that would deprive graduate teaching assistants and other student employees at private universities of the rights to organize and collectively bargain.<sup>1</sup> The proposed rule states that student teaching assistants and student research assistants at private universities are not employees with protected bargaining rights. 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.<sup>2</sup> 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 Trump board's proposed rule goes into effect.<sup>3</sup>

This is just the most recent example of the board's attack on working people.<sup>4</sup> The trend with the Trump board seems to be to take a statute that broadly protects private-sector workers—the National Labor Relations Act (NLRA)—and whittle away at its scope. At a time when worker advocates are demanding that more workers have the right to a union and collective bargaining, the Trump board's graduate teaching assistant proposal demonstrates a fundamental lack of understanding that graduate teaching assistants are an integral part of the modern academic workforce.

Had the Trump board considered any data or conducted any meaningful analysis of the academic workplace in developing the proposed rule, it would have discovered that the last several decades have seen significant changes in labor conditions within academia. 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.<sup>5</sup> That shift has only accelerated, as documented in a 2018 EPI report on the state of graduate employee unions.<sup>6</sup> 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%).<sup>7</sup> 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).<sup>8</sup> Graduate student assistants work an average of 22.7 hours a week. Though not shown in the figure, graduate assistants who are in Ph.D. programs<sup>9</sup> are paid \$19,286, somewhat more than graduate assistants overall.<sup>10</sup> 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 Trump board seeks to take from these workers.

## Graduate student workers were recognized as such in 2016’s *Columbia* decision

In 2016, the National Labor Relations Board ruled in *Columbia University* that “student teaching assistants” and “student research assistants” at private universities are employees under the National Labor Relations Act (NLRA/Act) and, therefore, have the right to form a union and bargain collectively.<sup>11</sup> Graduate student workers had been granted these rights before. In 2000, the NLRB found that student workers at private universities had the right to unionize.<sup>12</sup> But in 2004, the NLRB overturned that decision and stripped private university student workers of that right, determining that these workers were not employees.<sup>13</sup> But in its 2016 *Columbia University* decision, the board emphasized that the definition of “employee” under the NLRA is broad and, as under other worker protection statutes, should be construed broadly to cover student assistants as statutory employees “when they perform work, at the direction of the university, for which they are compensated.”<sup>14</sup>

In reaching its 2016 decision, the NLRB noted that the intent of the NLRA is to “encourag[e] the practice and procedure of collective bargaining” and to protect workers’ rights to “full freedom of association, self-organization, and designation of representatives of their own choosing.”<sup>15</sup> Given the Act’s policy and the broad statutory definitions of both employee and employer, the board found that student research and teaching assistants working for their universities should be denied their statutory right to form a union *only if* there were strong policy reasons to do so.<sup>16</sup> Columbia University’s administration argued that allowing student teaching and research assistants to bargain collectively as employees would improperly intrude into the educational process. The board, however, was not persuaded by this argument, in part because student worker unions have thrived at public universities for decades—including at some of the most prestigious of those institutions, such as the University of California at Berkeley, the University of Michigan, and the University of Wisconsin.

## The Trump NLRB proposed rule’s flawed reasoning

In its proposed rule that student teaching assistants and student research assistants at private universities are not employees under the NLRA, the Trump NLRB majority advances many of the arguments the board rejected in *Columbia*. The Trump NLRB insists that collective bargaining will harm “academic freedom.” However, there is a wealth of evidence to the contrary. 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.<sup>17</sup> There is no evidence that colleges and universities with union-represented student employees have experienced a loss of “academic freedom,” as the Trump board 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.<sup>18</sup> 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 Trump board’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 Trump board’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.<sup>19</sup>

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.<sup>20</sup> And international students account for nearly a third (30.4%) of graduate student assistants (as of fall 2017).<sup>21</sup>

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.<sup>22</sup>

## Collective bargaining improves graduate student pay and benefits

Since the *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, Northwestern University, and the University of Chicago. Furthermore, four private institutions have formalized contracts between graduate student employees and their universities: American University, Brandeis University, The New School, and Tufts University.

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.<sup>23</sup> 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.<sup>24</sup> 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.<sup>25</sup>

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.<sup>26</sup> 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.

## Highlights from private-sector collective bargaining agreements since the 2016 *Columbia* decision

**American University.** In December 2018, American University in Washington, D.C., and its graduate student employees finalized a 10-month contract that set a minimum compensation of \$22,000 per year for Ph.D. student assistants and minimum wage of \$15.50 per hour for master’s student assistants. Additionally, the contract provided graduate student employees access to health care, paid leave pursuant to D.C. law, and summer work opportunities. See [Agreement Between American University and Service Employees International Union, Local 500, CtW, 2018](#).

**Brandeis University.** In July 2018, Ph.D. student employees of Waltham, Mass.–based Brandeis University finalized a three-year contract with Brandeis University that sets a minimum compensation for teaching a four-credit course; establishes caps on workload per week per course; provides Ph.D. student employees with parental leave; and creates pathways for professional development and career opportunities. See [Collective Bargaining Agreement Between the Service Employees International Union, Local 509, CTW, CLC and Brandeis University, 2018](#).

**The New School.** In September 2017, graduate student employees and The New School in New York finalized a six-year contract that provides protections against discrimination on the basis of gender identity and sexual orientation; sets a minimum compensation rate with a general wage increase of 2% each year for the duration of the contract; offers graduate student employees the opportunity to receive a health care rebate; and sets child care benefits for graduate students to be pursuant to any future child care benefits The New School may offer to its other employees. See [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](#).

**Tufts University.** In 2018, the graduate student assistants at Tufts University in Massachusetts negotiated a six-year contract that sets a minimum compensation rate with a general wage increase of 2.5% each year for the duration of the contract; provides 12 continuous weeks of paid parental leave; covers the full cost of health care; and provides subsidized adult and child care services through the university. See [Collective Bargaining Agreement Between SEIU Local 509 Graduate Assistants and Tufts University, 2018](#).

# Conclusion

The Trump NLRB is committed to rolling back workers' rights to a union and collective bargaining.<sup>27</sup> It routinely advances political proposals based on flawed facts and flawed legal reasoning.<sup>28</sup> Through decisions, general counsel memos, and rulemaking, the agency is making it more and more difficult for working people to have a voice in the workplace. 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. The NLRB is the agency responsible for ensuring that right and we must hold it accountable for betraying its statutory duty.

# About the authors

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# Notes

1. Jurisdiction-Nonemployee Status of University and College Students Working in Connection with Their Studies [proposed rule], 84 Fed. Reg. 49691 (September 23, 2019).
2. 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.
3. National Center for Education Statistics (U.S. Department of Education), *Digest of Education Statistics*, Table 303.60 (data are for fall 2017), 2018.
4. Celine McNicholas, Margaret Poydock, and Lynn Rhinehart, *Unprecedented: The Trump NLRB's Attack on Workers' Rights*, Economic Policy Institute, October 2019.
5. Gordon Lafer, "Graduate Student Unions: Organizing in a Changed Academic Economy," *Works and Days* 41/42 vol. 21, nos. 1&2 (2003).
6. 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.
7. Graduate student assistantships include research assistantships, teaching assistantships, and any other types of graduate assistantships.
8. Unless otherwise noted, all NCES data refer to the 2015–2016 school year. All data are for the most recent period available.
9. 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).
10. 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.
11. *Columbia Univ.*, 364 NLRB No. 90, Slip. Op. at \*1 (Aug. 23, 2016). Since the NLRA applies only to employers in the private sector, the *Columbia* decision applied only to student workers at private universities. Workers at public universities are covered by applicable state and local labor laws.
12. *New York University*, 332 NLRB 1205 (2000).
13. *Brown University*, 342 NLRB 483 (2004).
14. *Columbia Univ.*, 364 NLRB No. 90, Slip. Op. at \*1 (Aug. 23, 2016).
15. *Columbia Univ.*, 364 NLRB No. 90, Slip. Op. at \*2 (citing 29 U.S.C. § 151) (Aug. 23, 2016).
16. *Columbia Univ.*, 364 NLRB No. 90, Slip. Op. at \*2 (Aug. 23, 2016).
17. *Columbia Univ.*, 364 NLRB No. 90, Slip. Op. at \*8–9 (Aug. 23, 2016).

18. 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.
19. 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.
20. 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.
21. Authors’ analysis of National Center for Education Statistics (NCES) data, retrieved November 19, 2019, using the [Integrated Postsecondary Education Data System \(IPEDS\)](#).
22. 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.
23. Josh Bivens et al., *How Today’s Unions Help Working People*, Economic Policy Institute, August 2017.
24. 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.
25. Collective Bargaining Agreement Between SEIU Local 509 Graduate Assistants and Tufts University, 2018, p. 25.
26. Collective Bargaining Agreement Between the Service Employees International Union, Local 509, CTW, CLC and Brandeis University, 2018, p. 15.
27. Celine McNicholas, Margaret Poydock, and Lynn Rhinehart, *Unprecedented: The Trump NLRB’s Attack on Workers’ Rights*, Economic Policy Institute, October 2019.
28. Celine McNicholas, Margaret Poydock, and Lynn Rhinehart, *Unprecedented: The Trump NLRB’s Attack on Workers’ Rights*, Economic Policy Institute, October 2019; Lawrence Mishel and Celine McNicholas, *Uber Drivers Are Not Entrepreneurs: NLRB General Counsel Ignores the Realities of Driving for Uber*, Economic Policy Institute, September 2019.

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%

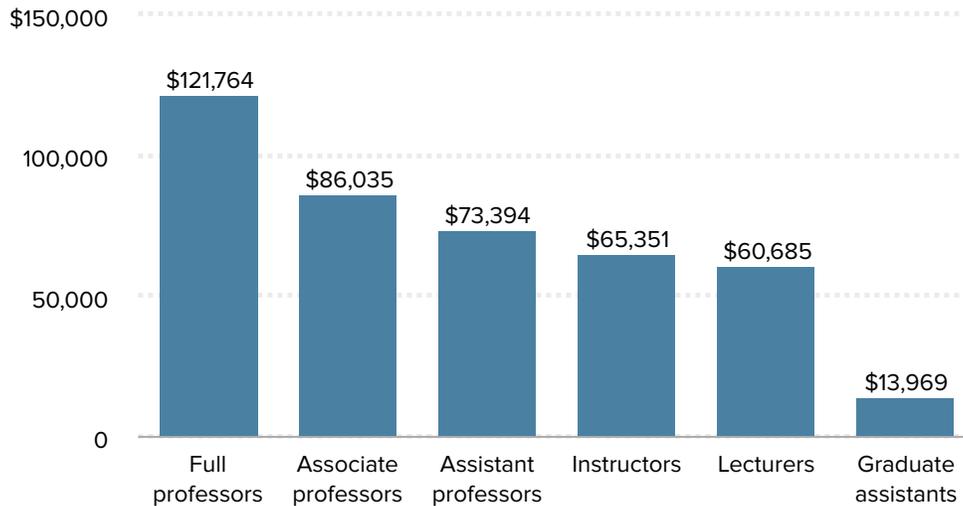
**Note:** “Nontenure-track instructional staff” refers to instructional staff members who are not on tenure track, have no tenure system, or do not have faculty status.

**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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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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