The Winds of Changes Shift

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LAWCHA member William Herbert, the Executive Director of the National Center for the Study of Collective Bargaining in Higher Education and the Professions at Hunter College, has just published an important article on collective bargaining in higher education. See "The Winds of Changes Shift: An Analysis of recent Growth in Bargaining Units and Representation Efforts in Higher Education," which appears in the recent issue of the *Journal of Collective Bargaining in the Academy*.

Abstract

This article analyzes data accumulated during the first three quarters of 2016 regarding completed and pending questions of representation involving faculty and student employees in higher education. It is part of a larger and continuing National Center research project that tracks faculty and graduate student employee unionization growth and representation efforts at private and public institutions of higher learning since January 1, 2013.

The data presented in this article demonstrates that the rate of newly certified units at private colleges and universities since January 1, 2016 far outpaces new units in the public sector. There has been a 25.9% increase in certified private sector faculty units over the number of private sector units identified by the National Center for the Study of Collective Bargaining in Higher Education and the Professions in 2012, while the increase in the public sector has been 2.1%. The largest number of newly certified units involves non-tenure track faculty at private non-profit institutions. The second largest group of new units in higher education involves tenured and tenure-track faculty at public institutions. The average final election tallies demonstrate strong support for unionization among higher education faculty: 72.8% among private sector tenured/tenure-track and contingent faculty, and 73.3% among public sector tenure-track and contingent faculty.

The article demonstrates that unionization efforts by private sector tenured and tenure-track faculty and faculty continue to be adversely impacted by two judicially-created doctrines, despite modifications made to the applicable standards in a 2014

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National Labor Relations Board decision. It also examines pending and completed unionization efforts by graduate and research assistants in light of the recent NLRB decision finding that private sector graduate student employees are entitled to the associational rights guaranteed under federal labor law.

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