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GSOC-UAW VS. NYU: CASE # 2-RC-220828

A Brief Foreword

These introductory paragraphs were written after I completed the essay which follows. That essay is a fairly straightforward analysis of legal issues in the case for unionization of graduate students at New York University. Re-reading it, I realized that any account of legal proceedings has its limitations. Human experience easily drops out. This is a particular loss when, as in the case of unionization, the context is social struggle. When workers organize, they are in a sense making their own history. Though organizing one workplace is in many respects like organizing any other, there is nevertheless something unique about every campaign. The stories workers tell about their victories and defeats are almost always complex tales about relationships in the workplace. So I decided to begin in a reflective--even confessional--mode. Perhaps that way, I can bring the human element of this story to the foreground.

In 1995, I entered NYU as a doctoral student in the American Studies Program. I was 57 years old. I had only a bachelor's degree, and I had been out of school for 37 years. For more than 20 years before I came to NYU, I had been a professional union organizer and a labor educator. I swore, when I returned to school, that I would never organize another worker. Not that I had a single regret about my past life. Everything I am, I owe to the union movement. It has changed my life in ways more wondrous than I can say.

In the years I served the movement, however, organized labor was under great stress. The struggle to survive took its toll, not only on the institution but on individuals within it. For all I gained, I lost a little, too. Perhaps it was the spirit of inquiry. My thinking was sometimes narrow. Maybe I just didn't have the time, but I found it hard to pursue creative projects. I talked about it a lot. I think some of my affectionate colleagues called me "egg head" behind my back. They weren't far off. Finally the need to recapture a more abstract intellectual life became urgent, and I took off for the academy. What happened is like "deja vu all over again." Like the union movement, the academic world gave me a new lease on life. I could actually feel myself grow.

Not unexpectedly, I was drawn to discourses on intellectual activism and academic labor, which were flourishing at NYU when I entered. What I brought to the table was a deep sense that workers are intellectuals and intellectuals are workers. My first effort to organize in 1974 had been at the publishing firm of Simon & Schuster, where I worked as an editor. I felt then--as I have ever since--that professionals and cultural workers are not only entitled to union rights but need them badly. In 1995, graduate students at Yale were in a critical phase of their union campaign, which had begun in 199. Many NYU students and some faculty members were watching events at Yale closely. A few NYU graduate students were meeting informally to discuss the possibility of unionizing at NYU. Having helped to organize university workers in the past, it was inevitable that I would be drawn into these discussions. Inevitable, too, that I would be a

founding member of NYU's Graduate Student Organizing Committee (GSOC-UAW). To tell the truth, I was a little home-sick for the old life and eager to keep my hand in.

I was a graduate assistant myself, by then. I could feel the work-a-day inequities in university life. Accustomed to a decent salary, I was shocked to find myself poor for the first time in my life. I worried about health care. I was unprepared for the intensity of university politics and for the intellectual intrigue, evident everywhere. Students relished the plentiful gossip, of course, but at the same time many of us were troubled. What about diversity and affirmative action? How does the tenure system really work? What are our chances of getting well-paid, full-time work in the academy? With several other students in a graduate seminar on academic labor, I had done a study of NYU in a period of transition, beginning in the late 1960s. Among other things, we discovered that the "New NYU" was following a trend toward corporate management, evident in most other large universities today. "Down-sizing" of academic and administrative staff was one indicator. As NYU initiated curricular reform, including a new core course for undergraduates, graduate students became an essential teaching resource. Antagonism toward unions was another indicator. In those transitional years, NYU had defeated an attempt by faculty to unionize. Though clerical workers and maintenance staff were unionized, every round of collective bargaining was a battle. In short, employees at NYU, including faculty and graduate students, had many of the same problems that workers in offices and factories encounter. Nevertheless, I recalled a cautionary word from Andrew Ross, the professor in this seminar. Don't make too many assumptions about this "corporate thing," he warned us. The university, after all, may be the only place where freedom of ideas still exists. I was beginning to think so myself. As a graduate student, I was experiencing a kind of intellectual equality I had not imagined before. I cherished the collegiality that nourished so many relationships between faculty members and students. In truth, I felt the academy was not exactly like every other workplace. With all the problems I found there, the academy had given me a special gift. It had freed me up to think more critically than I had in many years. I was not alone in these feelings. Most of my colleagues in GSOC-UAW felt similarly, and we have worked hard to make GSOC a union that is both militant in pursuit of workers' rights and attentive to the particularities of academic life.

It is this sense of appreciation for the difference in academic life--for the particular values one is privileged to share there--that seemed to be absent, when I re-read my article. The temperament of my essay is the temperament of a field organizer, but I have no desire to alter the tone. In many ways, I am that organizer still. In some other ways, however, I am the complicated egg-head my friends perceived. I offer this preface not to mitigate anything I have said, but to suggest that during the union campaign I have described so bluntly, this ardent leftist and trade unionist has had her moments of confusion.

My essay focuses on a question now before the National Labor Relations Board. Are graduate assistants at private universities employees under the law? GSOC-UAW is the petitioner in this case. We say, yes. NYU is the employer. They say, no. I'm not a legal expert, but I have seen many crude anti-union attorneys in action. By comparison, NYU has appeared as a worthy opponent in the court room. Their lawyers have been tough on every GSOC witness, including me, but they haven't pulled any dirty tricks or attempted to delay the proceedings. That said, I'm no disinterested observer, either. An active member of GSOC-UAW, I'm one of many graduate students at NYU who want a union. In summarizing the legal arguments in this case, therefore, I make no pretense at neutrality. Nor do I hesitate to interpret the issues from a union perspective.

The legal case and the organizational issues in this union drive at NYU are deeply connected. Necessarily, I have gone beyond the legalities, in an effort to show how what happens in the court room affects what happens on the campus. And vice versa. In several instances, I have quoted anonymous sources. Already, one graduate student who testified before the NLRB was publicly reprimanded by her department head. I don't want to expose anyone else to such treatment.

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Since the late 1960s, New York University has been climbing upward, into the big leagues of higher education. A campaign to raise standards has paid off. Along with a stellar faculty, many recruited from Ivy League schools and other major research institutions, the University has lately been attracting undergraduates with higher test scores and--according to a University task force on graduate financial aid--higher academic expectations. As the report clearly states, these expectations have everything to do with the quality of instruction that will be provided by graduate students.¹ Moreover, the report suggests, the quality *and number* of graduate students will ultimately affect the University's ability to recruit high-profile faculty, whose needs must be met.² Burdened with their own research and the dictum to publish, NYU's relatively small number of full-time faculty can't meet their obligations without the services of research and teaching assistants. In short--like every other big university--NYU has come to rely on low-paid, part-time labor, provided by a ready pool of graduate students. The NYU biology department is a clear example. Undergraduates enrolled in the introductory course must attend one weekly lecture session, taught by a faculty member. They must also attend two laboratory sections a week. To accommodate the number of students, the department normally schedules between 15 and 20 of these sections, all taught by graduate assistants.³ Yet, in a case now before the National Labor Relations Board (NLRB), NYU's administration is challenging what to the naked eye is work-for-hire.

In April 1998, the NYU Graduate Student Organizing Committee (GSOC) reached a decision to affiliate with the United Automobile Workers union (UAW). The committee's choice was based upon UAW's record in representing graduate students at such other campuses as University of Massachusetts-Amherst and the University of California. A campus-wide petition campaign began in October. Within six months, GSOC-UAW had signed up the majority of working graduate students at NYU. On April 16, 1999, GSOC-UAW asked the University to recognize the union. The University refused. GSOC filed a petition for union representation with the NLRB, and hearings in the matter began on May 20, 1999. At this writing, a decision in the case is pending.

When the hearings began, NYU filed a motion with the NLRB to dismiss the case. The motion was denied in a decision issued by Daniel Silverman, a Regional Director for the NLRB in New York State. In his decision, Silverman upheld the right of NYU employees to present evidence of employee status, based on "the ordinary dictionary definition of an employee as 'person who works for another in return for financial or other compensation.'"⁴ The case has proceeded, and NYU has mounted an offensive against the union, arguing that graduate assistants are students, not employees. Ultimately, the University hopes to prove that graduate students are not entitled to collective bargaining rights.

Simply put, the University's argument goes like this: Graduate assistants are primarily students. As part of their academic training, they teach undergraduates, do research for faculty and perform the more general tasks of an all-purpose GA. By this logic, graduate assistants and faculty are not in an employment relationship but in a mentor-mentee relationship. The popular "apprenticeship" argument, heard widely at Yale, has apparently lost currency--perhaps because apprentices have historically enjoyed union rights in many industries. In any case, we have not heard the term applied to graduate students at NYU.

In presenting evidence from the science departments, NYU has suggested that work performed by doctoral candidates is a requirement for the Ph.D. This comes as news to many graduate students, who haven't seen such a requirement noted in their own departmental descriptions or heard of it from their advisors. Among approximately 1500 working graduate students, a significant number entered the University with full funding through fellowships. While this group may be expected to give two years of service in return for their funding, even those graduate students do not seem to be *required* to work. One faculty member I interviewed gave the example of a student who declined to teach because she had no interest in an academic career. She got her degree all the same. Indeed, the report on graduate financial aid is precise on

this point. With regard to fellowships, the reports says, no service is required in return.⁵ Astonishingly, despite findings in this report that are favorable to the union case, it was submitted into evidence by University attorneys, early in the hearings. Later, through direct examination of Dean Catharine Stimpson, these same attorneys attempted to discredit findings contained in the report, provoking an irritable objection from union attorney, Daniel Ratner. "The employer now seems to be using the witness to impeach their own document," he said.⁶

The University argues that assistantships are specifically designed to meet the objectives of graduate students--to enhance knowledge and experience in the student's academic field and to support research for the dissertation. This, despite ample testimony from graduate students that many of us do as much shit-work as intellectual work, related to our academic interests. I need go no further than my own experience to illustrate the point. In four years as a graduate assistant, I have spent as many hours doing mindless tasks--schlepping books to and from the library, xeroxing and filing course materials--as I have spent in the classroom with undergraduates. Fortunately, I have not been asked to blanch 200 asparagus. (One graduate assistant in NYU's School of the Arts actually did this for a departmental bash.) But I have ordered the cookies and soda pop for end-of-term parties, and I have cleaned up afterwards. For the record, I hasten to add that often I have been grateful for these assignments. Administrative tasks are honorable work, after all, and such jobs have meant less stress and more time to meet my academic obligations. Anyway, on grunt-work days, ask my tired back and feet if I have done a day's work. For that matter, ask me the same question after a day grading papers and meeting with befuddled undergraduates.

The union's argument may be stated simply as well: graduate assistants are central to the University's economy. We perform necessary services, for which we are paid--however little. That being the case, our work meets the common definition of employment. We do *not* dispute the fact that graduate students learn from their work. We agree: The most desirable assistantship is one that supports a student's academic goals. We *do* maintain, however, that the subjective value of our work (what we gain beyond wages and benefits) has no bearing on definitions of employment. Workers in the commercial world, whose employment status is not in question, routinely acquire knowledge and skills which prove useful in the course of career development. And finally, like those other workers, the bottom line for most graduate students is earning a living. However much we appreciate the privileges of academic life--however dedicated we are to the pursuit of knowledge--most of us simply need to pay the rent and eat a square meal once in a while. I, for one, have let my faculty advisors know I'm not that fussy. A job is a job.

On February 20, 1980, the Supreme Court of the United States over-ruled a finding of the NLRB, which had granted employee status to faculty members of Yeshiva University. This Supreme Court ruling has come to be known as "the Yeshiva Decision." In brief, the decision says: "Members of a private university faculty exercising absolute authority in academic matters, [are] held to be managerial employees excluded from coverage of [the] National Labor relations Act."⁷ There is an interesting NYU connection, here. In the summer of 1997, I interviewed former NYU President, James Hester. In 1973, the final year of Hester's tenure, NYU faculty attempted to unionize. "I fought the union tooth and nail," Hester assured me. Then he took credit for the Yeshiva decision. As Hester tells it, an attorney who worked for NYU during the faculty union drive moved on to Yeshiva, where he became chief litigator in the case against faculty unionism there. Yeshiva's case, Hester boasted, was modeled on NYU's argument for the managerial status of full-time faculty.⁸ Though I had the sense Hester was embellishing, I would not discount this story altogether.

Under the National Labor Relations Act, managerial employees are ineligible for collective bargaining rights. Though many private institutions bargain with unionized clerical and maintenance staff, since "Yeshiva," most have remained union-free on the academic side. Graduate students, however, have sustained a persistent challenge to the academic exclusion. We cannot be construed as managerial in either the private sphere *or* the public domain, where employee status has been established many times over.

With that in common, graduate students at private and public schools could help to bridge the great divide in higher education. This is a matter of no small concern to the gate-keepers of elite education.

Unionization of graduate students is not a new thing, and there are many graduate student unions in the public sector. The first of these was established at the University of Wisconsin in 196. Since then, unions have been achieved by graduate students at such public universities as Michigan, UMass, Rutgers, Iowa, Kansas, Oregon and the State University of New York (SUNY). Except that unionized graduate assistants have achieved a degree of democratic participation in university life--not to mention better wages and working conditions--nothing remarkable has occurred to change or disrupt the usual academic relationships. Graduate students continue to care about the undergraduates they teach; faculty are still respected; administrators retain their authority. In fact, these relationships may be better with a union contract. Not long ago, I was interviewed for an assistantship. The professor, who was coming to NYU from a unionized campus, was uncomfortable about negotiating salary with me. "When there's a union contract," the professor said, "it's much easier. I know exactly what I'm supposed to do."

For a decade, graduate students at Yale University have been battling--virtually alone--for union recognition in the private sector. In 1995, the Graduate Employee Student Organization (GESO) staged a grade strike. Yale retaliated by threatening to fire several union activists, and GESO filed unfair labor practices against the University. The NLRB took up this complaint against the University, though ultimately it ruled in the University's favor. Under NLRB law, the decision states, *employees* (the emphasis is mine) cannot engage in a partial strike. The case is still on appeal in Washington. Though the matter of employee status is implicit in this case, there has never been a direct ruling on it, and GESO has continued to organize with increasing vigor.

Along with campaigns in the public sector, this campaign at Yale has been a very important influence on graduate student unions, developing at other private schools across the country. Quite suddenly--it appeared--NYU-GSOC jumped into the fray and shot ahead, reaching majority status in a public organizing campaign of only six months. In fact, the emergence of GSOC was anything but spontaneous. The trajectory of our campaign has been carefully charted, and we have learned a great deal from earlier organizing efforts. If GSOC has been successful in any way, much of the credit must go to pioneers in the field, including the Graduate Employee Student Organization at Yale.

Accustomed to the pace of things at Yale, the NYU administration may have been taken by surprise when GSOC-UAW requested recognition of the union. NYU finds itself in the hot seat, now, expected to hold the line for every private university in the country. To do the job, NYU has hired Proskauer, Rose--the same high-profile, high-priced law firm that works for Yale and the University of California. Even by conservative estimates, GSOC calculates that NYU has already spent more than \$600,000 in legal fees in just the summer months of 199. This, we assume, is only the initial outlay. In its effort to defeat the union, NYU will certainly take full advantage of Proskauer services, which extend well beyond litigation. On its website, the firm announces: "With respect to union relationships, we counsel clients how to avoid, and where appropriate, resist union organization of employees."⁹ Even with this expertise behind them, NYU may be fighting a losing battle--especially in light of events in California.

Graduate student employees at the University of California began a campus-by-campus organizing drive in 198. They stuck together, despite a heavy anti-union campaign mounted by the University. Years of legal wrangling came to a head in May 1994, when California's Public Employees Relations Board (PERB) ruled that UC graduate students, represented by the UAW, were employees. For the next four years, UC struggled to over-turn this precedent-setting decision, filing appeals and exceptions to the ruling. The case finally ended on December 11, 1998, with a ruling that affirmed employee status under California's Higher Education Employer-Employee Relations Act. Since then, graduate assistants on all eight campuses in the UC system have won elections for union representation (by substantial majorities in

each case), and collective bargaining is proceeding.

What is amazing about this victory is not the legal decision--work is work, and sooner or later the truth will out. What should give NYU pause is the perseverance of UC graduate students and their union. In a campaign lasting 13 years, the turn-over of students was virtually complete. Union activists graduated and moved on. New ones came to take their place. Perhaps UC hoped the union would languish and die as the legal case dragged on, year after year. It did not. The point is, it's not *about* legalities; it's about justice. Like the hard-won campaign at UC, the NYU campaign is issue-driven. Graduate students want a voice in decisions that affect our lives at the University. We want fair pay, equitable working conditions, adequate health care and housing. We want deeper commitments to affirmative action. In short, we want more democracy in university life, and so will those who come after us.

Transcripts of the various UC hearings total several thousand pages. From testimony recorded there, it's clear that the work graduate assistants perform at UC is fundamentally the same work graduate students do at NYU. In light of all this, why won't NYU simply concede that this decision in the public sector is sufficient precedent for NYU and the private sector? There are the technicalities, of course: private educational institutions come under the jurisdiction of the National Labor Relations Board, while schools in the public sector are under state jurisdiction. Overall the difference in legal statutes is not great, but there are two areas of difference that matter greatly to NYU. One is the scope of collective bargaining, which is defined somewhat differently in public and private statutes. The second has to do with strikes. In the public sector, university employees who are unionized do not have the right to strike. If graduate students in the private sector are defined as employees, we would have the right to strike under federal law. The university's biggest fears are revealed in legal arguments about these issues.

NYU has argued, both in the courtroom and on the campus, that academic life would be disrupted by collective bargaining and strikes. On September 17, 1999, the university distributed a Q and A sheet about unions, which was prepared by Vice President for Academic Development, Robert Berne. In this document, which was addressed to faculty and administrators, Berne alludes to these issues: "These factors combine to suggest that the fundamental relationships between faculty as a group and graduate assistants, and between each individual faculty member and each graduate assistant, will be altered in substantial ways if graduate assistants were to become unionized."¹⁰ The union has evidence to the contrary and has sought to introduce testimony from the public sector. In the UC case, for example, graduate students have struck several times in the course of their campaign for unionization. Academic life has returned to normal each time. Collective bargaining between graduate students and university administrators is routine at many public schools. Academic life goes on. In an interview for the journal *Physics Today*, Susan Pearson, Associate Chancellor at UMass-Amherst said "[when the UAW first began to organize at U-Mass] "people expressed fears about the negative effects on the relationship between faculty and students. None of that has materialized."¹¹ This is not what NYU wants to hear, and it has argued vigorously to preclude such evidence.

It is here that legal and organizational issues come together with particular clarity. Outside the courtroom, after all, NYU is waging a campaign that depends almost entirely on its ability to strike fear in the hearts of graduate students and faculty. The persistent theme of this campaign is "disruption" of academic life. Ominously, NYU is suggesting that the very image and status of this global university will be debased by unionism:

[I]n higher education, the nature of the relationship between the faculty and those pursuing advanced degrees is not simply teacher-to-student. It is a collegial relationship, one involving mentorship. The University has concerns that the interposition of a union and a union contract in that relationship would be harmful to a system that works so well that it attracts students from around the world. Each of these student-faculty relationships

is different, encouraging a wide variety of scholarship; this is a strength, not a flaw. Thus, a union contract holds the prospect of homogenizing the different models, approaches, and relationships.¹²

The NLRB hearing officer has so far sustained NYU's objection to testimony from the public sector, though the union side remains free to cite public sector precedent in its briefs. To the plain-spoken, however, legal arguments sometimes sound like legal hocus pocus. NLRB rules notwithstanding, there is more at stake than the letter of the law. In part, NYU's anti-union impulse is quite ordinary. No boss wants a union. For one thing, employers don't want to shell out the additional dollars in wages and benefits demanded in collective bargaining. Even more important, they don't want to lose control over decisions that govern policy and practice. In the university case, however, control is a nuanced thing-- more than a brute fact of daily life. Though it is that, too. What is also at stake is elitist academic tradition--the idea that intellectual work floats somewhere above the worldly toil of service employees or industrial laborers. In this ideological universe, different standards apply. Unions, say the liberal university, are right and good for workers of the world but not for those in the ivory tower, who labor for high ideals and principle. (As though unionized schoolteachers, doctors and lawyers do not?) The battle for academic tradition may have been lost in the gritty public sector, but it's still alive in the private domain, and NYU is on the dividing line. Even if this private urban university understands its place in the "real world" of city streets and public parks, it must defend the old ideology for every cloistered campus in America. While elite tradition may not resonate in the public sector, it has a certain purchase in private education. If graduate students at private universities are the same as graduate students in public universities, an important distinction in higher education will be erased.

In recent years, elitist ideologies have been questioned sharply--even attacked by academics and public intellectuals.¹³ But old traditions run deep, and even academics who identify as leftists can find themselves on the anti-union side when the university does a roll call. This was certainly the case at Yale. While GESO has had the support of several prominent faculty members, including Michael Denning and David Montgomery, few others have actively supported the right of graduate students to organize. During the grade strike of 1995, some went so far to the University side, they turned in their own graduate assistants. At NYU, there are also faculty members who oppose the unionization of graduate students. But there are a good number of union supporters and many more who--at a minimum--respect the right of graduate students to make a democratic choice in the matter. Close to 200 NYU professors--up and down the ranks--have signed a statement, urging the University to remain neutral. They do not want the University to interfere in the democratic process by mounting an anti-union campaign against GSOC. Unfortunately, however, it seems like NYU may already have purchased the very expensive and very slick Proskauer, Rose anti-union "kit." Up on the new NYU public affairs website is a crib sheet for administrators and faculty, containing the legal dos and don'ts of an anti-union campaign. It offers such advice as the following:

[P]redictions of adverse consequences that are based on objective fact are unlawful, e.g., "if the union gets in, there will be fewer graduate assistant opportunities," or "if the union gets in, graduate assistants will become too costly." At the same time, however, it could be lawfully said by a faculty member, for example, that "unionization of graduate students could lead to changes in the reliance of faculty on graduate assistants, that negotiation of a collective bargaining agreement would likely result in rules and restrictions on the way faculty work with graduate assistants, and that departmental and individual decisions on these issues could be limited by across-the-board collectively bargained rules, and that given such restrictions, many faculty might find it necessary to re-evaluate their reliance on graduate assistants."¹⁴

In a pre-election period, NLRB regulations would prohibit the University from making changes in policy

or practice which might alter the climate of an election. But a decision in the case is still pending; no election date has been set; and the University is free to court us and our professors, which they are doing. Since NLRB hearings began three months ago, the university has become exceptionally conscientious. On July 9, 1999--nearly two months after NLRB hearings began--the NYU Office of Fiscal Services issued a memo to department and program administrators, entitled a "New Appointment Code for Non-Teaching Graduate Assistants." Complete with underscores, this memo outlined "code 130," newly created to cover the category of graduate assistant. The duties of a GA, this new code states "are related to the field or discipline of a student's degree studies at NYU and are *primarily* focused on the development and exercise of a *variety of professional and technical skills*." An earlier memorandum to "the NYU community" was issued on June 1. The purpose of this memorandum was "to bring the community up to date on the steps we have taken to respond to the UAW's activities." The Graduate Student Organizing Committee is nowhere mentioned in this memo, which refers exclusively to the UAW. In other words, do we want a union of automobile workers in this community? Students are apparently not members of the community, since none of us received this communique. But, don't worry, we are not being ignored.

University officials have made more determined efforts to meet and greet graduate students. In meetings with the Graduate Student Council and the Graduate Students of Color Network, for example, deans have promised a better and brighter NYU, with more training for graduate assistants and more attention paid to problems graduate students encounter. From what I have heard, in the past, the yearly orientation for graduate students has been pretty general. I have never even been invited to attend one. A colleague of mine from another department was also overlooked in the past. She made her own arrangements to attend this year and reports that there was "lots of discussion about 'professional development', a mock teaching session, a real book on the craft of teaching (400+ pages of pedagogy), discussion of [university resources] to improve our teaching skills, etc. Heavy emphasis on time-management issues."

Such amenities are only part of the courtship, which has included a wage increase and a stipend for child care. You don't need a Ph.D to get the meaning here. This ploy to win us over may have backfired, however. Mysteriously, some--but not all--of us have received raises this year. Workers in the Morse Academic Program (MAP), for example, will get no raise this year. As one graduate assistant there has said, "I believe the raises are a result of GSOC's successful organizing campaign, but I find it deplorable that NYU is not delivering on its promise to all TAs."¹⁵ So, the raise leaves some of us happy, others pretty mad and most of wondering about the inequities. The child-care stipend is another mixed blessing. At \$400 a year, the stipend is pitifully small and, in any case, is useful for only a minority of graduate students. Meanwhile, a 25 % hike in health care fees, also instituted by the University this year, applies across the board.¹⁶ Go figure.

So far, the University has used a soft-sell approach. But one thing is pretty sure, the University's campaign will escalate once an election date is set. We can expect the tone to get tougher and the message more fearsome. NYU will take the line, developed by Proskauer, Rose for campaigns at Yale and UC. The main points are these: A union will interfere in the harmonious relationships that now exist between teacher and student; academic freedom will be jeopardized by the union; unions in general are a bunch of mob-ridden outsiders; the UAW in particular may be fit for burly auto workers, but not for intellectuals like ourselves; the UAW is out for our money and will levy high dues; the union will call us out on strike. And so it will go, to the bottom line: unions have no place in the academy.

This is all standard stuff. In some non-academic permutation, this message--or something quite similar--is promulgated at every workplace where employees are trying to unionize. Because the anti-union campaign is so predictable, however, it should not be difficult to "innoculate" students and faculty against the effects. The thing to remember is that the anti-union campaign is defensive. The university--like every other employer--will spare no effort or expense to ward the union off. There is a body of labor law that governs the scope of both employee and employer rights in the pre-election campaign period. But that

time is to come. We will have to see how well the law protects our rights.

I have written with the confidence of a winner. I believe the GSOC-UAW case will make labor history, not only because the union cause is just, but also because it is consistent with the common law definition of employment. In my trade union life, however, I have thought such things before and suffered disappointment. Reams have been written about the pro-employer edge in labor law and about an anti-union ethos in the body politic. I will not add to that discourse here, as my purpose has been merely to present the case--albeit from the GSOC perspective. Therefore, I will say only this: if GSOC-UAW has made an excellent case, the University side has offered an aggressive rebuttal. The hearing officer has conducted a fair trial and established a full record. A decision in the matter will be made by the Regional Director, but he may not have the last word. The loser is unlikely to give it up easily. An appeal to the full National Labor Relations Board in Washington may well be the next chapter in "Case No. 2-RC-220828."

Notes

1. Herrick Chapman, Gloria M. Coruzzi, Robert McChesney, Yaw Nyarko, Kathleen A. Ross, Diane N. Ruble and Nadrian C. Seeman, "A Report with Recommendations to the Dean of the Graduate School of Arts and Science, New York University," June, 1998, pg. 1.
2. Ibid, pg. 2.
3. See the NYU spring '99 undergraduate course catalogue. In public testimony before the National Labor Relations Board, Biology chairman, Philip Furmanski, acknowledged that all lab sections scheduled there were taught by grad students.
4. See page pp. 4-5 of "Order Denying Motion to Dismiss Petition or Stay Proceedings," issued by Silverman on May 28, 1999.
5. See "A Report with Recommendations.....," pg. 3.
6. "Official Report of Proceedings Before the NLRB, Case No. 2-RC-22082," pg. 791.
7. This summary is found in "1980 U.S. Lexis 25***; 63 L. Ed. 2nd 115," pg. 1.
8. "Between Classes: The NYU Afterword," an unpublished paper by Daniel Bender, Erin Elizabeth Clune, Kitty Krupat and Andrew Schroeder. See Introduction, pp. 19-20.
9. See "NYU Pays Half a Million to Avoid Grad Union," in *GSOC Journal*, Vol. 2, No. 1, August 1999, pg. 3.
10. "Questions and Answers on Graduate Assistant Organizing," a document issued by NYU on September 17, 1999. See pp.1-2. A file of all NYU releases in its anti-union campaign may be found on the website maintained by NYU's Public Affairs Department: <http://www.nyu.edu/publicaffairs/gradissues/>.
11. "In a Tight Academic Job Market, Union Activism Grows Among Graduate Students," in *Physics Today*, May, 1999, pg. 4.

12. "Questions and Answers....", pg. 1.

13. See, for example, the winter, 1996 edition of *Social Text*, devoted to academic labor. A number of the essays in that edition discussed the right of graduate students at Yale to unionize. Cary Nelson's 1997 anthology, *Will Teach for Food: Academic Labor in Crisis*, was an expanded version of this *Social Text* edition. Elitist notions of academic labor are sharply attacked in two other books by Nelson: *Manifesto of a Tenured Radical* and *The Devil's Dictionary* (co-authored with Stephen Myers Watt). Numerous conferences and symposia have added to the discussion, including two at NYU: "Between Classes," held in the fall of 1996, and "Intellectual Activism," held in the spring of 1999.

14. This is one of a series of legal dos and don'ts, contained in a September 17, 1999 memorandum to faculty and administrators from Andrew Schaffer. It may be found on the University Public Affairs website: <http://www.nyu.edu/publicaffairs/gradissues/>.

15. See "Did You Know...," in *GSOC Journal*, pg. 3.

16. The increase in student health care fees is broken down in the cover story of *GSOC Journal*, Vol. 2, No. 1, August 1999.

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