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## **DEFENDING A “DE-SCHEDULED” INSTRUCTOR:**

*A Program Representative (Steward) Workshop for the Roosevelt Adjunct Faculty Organization (RAFO), Roosevelt University, Chicago*

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### **Introduction: Bringing in the Union at Roosevelt**

Roosevelt University in Chicago is a private liberal arts university with a proud history. Named after Eleanor Roosevelt (as well as Franklin D.), its grand stone buildings face onto Michigan Avenue and Grant Park. A newer suburban campus is located some fifteen miles away.

However, like nearly every other institution of higher education in the U.S., Roosevelt has come more and more to rely on adjunct faculty. By 2000, adjunct faculty (instructors who are non-tenure track) at Roosevelt outnumbered tenure-track faculty by three to one. Their contingent status, low wages and unpredictable assignments typified the working conditions of adjuncts.

Like other adjunct faculty in an increasing number of colleges and universities, the adjuncts at Roosevelt set about organizing a union. Working with the Illinois Education Association, a group of activists collected signatures and filed for and held an election. Because Roosevelt is a private college, this election was held under the auspices of the National Labor Relations Board. (A separate labor board and somewhat different labor laws apply to public institutions.) The election was successful, bringing in the Roosevelt Adjunct Faculty Organization (RAFO) by three to one. The success of this election was not surprising: increasingly, organizers in higher education are reporting that when contingent workers have the opportunity to vote for or against representation by a union, they vote for (See Berry 2001. The contract itself was negotiated over the next year, ratified by the union membership, and became effective August 15, 2001. It is online at <[www.rafo.org](http://www.rafo.org)>.)

### **The new steward system and the need for steward training**

Building a union is not over when the election returns come in or even when the first contract is ratified. An immediate challenge is internal union structure: developing a steward system to enforce the contract, building a fully representative executive committee, and keeping the membership active. Stewards—called Program Reps at Roosevelt—were recruited with a goal of having one Representative per twenty members. Because of the two campuses and the irregular schedules of adjunct faculty, Program Reps at Roosevelt also sit on the union executive board so that steward trainings and discussions can be part of executive board agendas. However, since less than half of the new Program Reps had either previous union experience from other jobs or some prior union education, as a whole the new Program Rep group

needed an introduction to representation by unions. They invited the Chicago Labor Education Program (CLEP, part of the University of Illinois Institute of Labor and Industrial Relations) to come and do a basic workshop on representation.

### **The union and the administration: adversaries who jointly enforce a contract**

It is important to point out that one purpose of the training was to clarify the way the union's duty to represent the instructors presumes that, in some areas, the union and the administration are adversaries. For example, the handout titled "Rights of the Union and the Administration Under Law" contrasts the duties of the union and administration, showing that while the union must represent the workers to ensure fairness, the administration must focus on efficient use of resources and productivity. These concerns are essentially in conflict with each other. In practice, both sides are likely to identify their goals as constituting "quality" in education, yet if each side unpacks what goes into its definition of quality, the differences are striking. A familiar example is class size in composition classes: instructors will argue that a good size for a class will be between 11 and 17; administrators will argue for 26 or more. (An article focusing on how the word "Quality" means different things to each side is forthcoming, by this author and Joe Berry, in *Labor Studies Journal*).

In spite of being in fundamental conflict, both sides are equally responsible for enforcing the contract. This means that while the handouts with which the participants were provided use the language of academia—"administration" rather than "management," and "instructors" rather than "workers"—the relationships described, at least with regard to the duty of representation, are essentially the same as the relationships found in any workplace, whether it is a nursing home, a food processing plant, a steel mill, or a university. Emphasizing this similarity can help contingent workers in higher education draw confidence from viewing themselves as part of the broader labor movement. It also may clarify what representation means for adjunct faculty who are new to being represented by, or doing representation in, a union.

### **The workshop**

This paper reports a one and a half hour workshop prepared for the RAFO Program Reps and officers by CLEP as a way of bringing them together to begin addressing representation issues that might arise under their new contract. The problem given to the participants—a "descheduled" instructor—guided a search through the contract for a possible defensive strategy, leading to a discussion of the need for faculty control of the issue of evaluation of teacher effectiveness and the importance of an organizing, collective approach to grievance processing. En route, the workshop took a look at some bureaucratic problems that might be encountered when the union attempted to gather information from University personnel files. The materials which the workshop used were the union contract, handouts that presented the role of the steward in a higher education context, and a group role-play exercise.

### **Lack of job security: the central concern of adjunct faculty**

The group exercise, which was the centerpiece of this workshop, addresses the distinguishing characteristic of contingent faculty: the fact that they have no job security. While adjuncts are paid less than tenured or tenure-track faculty, keeping labor costs low is a lesser concern to administrations than "flexibility". Experience shows that administrations will grant wage increases before they will agree to job security. The lack of job security means that both union and professional activity goes on in an atmosphere where anxiety related to uncertainty about continuing employment and becoming "de-scheduled" influences instructors' behavior both inside the classroom and among colleagues. Issues related to academic freedom, professional standards, discrimination, and retaliation against union activity become hard to sort out when a supervisor is free to drop an instructor off the list without having to provide a good

reason (a "just cause").

For those who haven't been there, it may be hard to imagine the kinds of pressures a contingent academic works under. This insecurity has a direct effect on teaching choices adjuncts have to make. In a chapter in *The Politics of Writing in the Two-Year College* (Boynton-Cook 2001) this author describes an ESL teacher who has an evening class full of "friends and relatives who shouldn't be there." She lets them enroll to keep her class from falling below the minimum enrollment, but then has to give low grades and is fearful of being told by her administrator that giving out low grades means she's not a competent teacher, that she "isn't in the community college mode." She is told, by a "friendly" full-timer, to "raise all the grades five points"—and by another to raise all the grades a whole letter. Another example in the same chapter is a carpentry instructor who likewise has to enroll a certain number of students; he starts to argue that he can't safely supervise that many students using power tools, but rather than engage in a disagreement with someone who can easily "deschedule" him, he decides to postpone teaching the power tool part of the class. These examples barely scratch the surface of the types of accommodations that workers without job security make in order to "stay below the radar" of the administration.

When adjuncts do have job security, it is usually embodied in a contract through a combination of a seniority list, an evaluation process, and some form of just cause discharge provision. Violations of these items are grievable, which means that the union can construct a more or less standardized defense and carry it out publicly. When adjuncts have job security, the "flexibility" of the contingent workforce plummets. It is no wonder that this is the central issue for both unions and employers in higher education.

While some adjunct faculty unions around the country have negotiated articles which provide more job security (such as AFT Local 2121 at City College of San Francisco: [www.ccsf.cc.ca.us](http://www.ccsf.cc.ca.us)), at Roosevelt the union was not able to negotiate a just cause discharge article successfully. The administration was quite adamant in defense of their need for "flexibility." A person who was at the table negotiating reports that the union was accused of "trying to get tenure by the back door" during this stage of bargaining. Nevertheless, some language, as the following workshop exercise will show, can be used to construct a process to defend a "descheduled" instructor. While their new contract did rather well on wages (as might have been predicted), the lack of full, just cause or tenure equivalency job security will create problems down the line, which will eventually have to be addressed in negotiations.

This exercise is intended to demonstrate that a contract is a complex net of conditions that govern the relationships between the parties to the contract. What affects the resolution of a given problem is not any one article in a contract in isolation; it is the entire contract.

Therefore, lack of complete contract language on job security does not mean that the contract cannot support a strategy to get a de-scheduled instructor's job back. As will become clear in the exercise, there are articles in the Roosevelt contract, which can be used by the union to defend faculty despite the lack of just cause discharge. As the defense of the instructor moves along, different parts of the contract govern different actions that the union may take and different relationships between faculty and administration.

### **What the workshop revealed**

During the workshop, it became apparent that the pivotal issue of job security was revealed to be inextricably linked to the issue of quality of teaching in the eyes of the Program Reps and the union officers. "Evaluation" became the process by which jobs would be defended. This is in direct contradiction to the familiar administrative criticism that the role of a union in higher education is to protect incompetent instructors. On the contrary, it became evident that the Program Reps themselves had a clear idea not only of what good teaching practice was but of what the process of remediation of poor

teaching practice should be, how long it should take and who should be the judge of it. The Program Reps displayed this through their discussion of the evaluation article in the contract. In this discussion they took ownership of the evaluation process as a group of professional teachers; as union representatives, they defended the interests of the union and the faculty as a whole.

### **The group exercise**

Participants were paired up to work their way through the group exercise. This exercise links a specific situation (an instructor who has not been assigned a class for the upcoming semester) to the protections that the contract affords. It moves chronologically from the moment when the instructor finds that he has been "descheduled." The instructor comes to the union. The union has to determine what his status is within the bargaining unit. It then decides how to handle an interview with the supervisor. This leads to an investigation. The instructor will demand to see his personnel file, which brings up another set of questions related to evaluations. Finally, the union will have to consider questions such as remediation or charges of retaliation. All along, the participants are asked to think of ways to use the points of interface between faculty and administration to create maximum pressure on the administration to do the right thing.

Participants were given 45 minutes to work through this exercise. Copies of the contract were provided at the workshop. The exercise was followed by reports from each pair and discussion.

### **Exercise: The De-Scheduled Instructor**

In December, an adjunct instructor at Roosevelt finds that he is not on the schedule for spring semester. Although under the new contract there is a notification process, it was not followed in this case, and he finds that the course he has taught before is being offered, but he is not being given that assignment. He has been "de-scheduled." He comes to the union for assistance.

Consider and discuss these questions. In some cases, you will have to commit to a hypothetical answer in order to move on to the next question. The contract is at [www.rafo.org](http://www.rafo.org).

#### **A. Bargaining Unit Membership**

1. Is the instructor in the bargaining unit? Does the union represent him? Look at the contract to see the definition of the bargaining unit. See Article 1-A. Let's say the answer is yes--he has taught 3 credit hours in 3 semesters out of the immediately preceding 5 semesters. But what if he were not "in the bargaining unit"? Should the union try to do anything even so? At Roosevelt, there are people who have joined the union even though they are not yet included in the bargaining unit. What is the union's duty to them?

#### **B. Weingarten Rights**

1. Should the union recommend that the instructor talk with his supervisor on his own to find out what is going on? Should a representative of the union go to speak with the supervisor along with the instructor? At what point would you want the union to get involved?

2. See Article 4-F. This article re-states what is known as "Weingarten rights." Is this a situation where the phrase "determine if discipline is warranted" applies? If so, it is a situation in which Weingarten Rights apply, and the instructor has the right to union representation.

3. What kinds of discussions between the instructor and the union representative should go on before either or both of them go to talk to any supervisor?

### **C. Investigation**

1. Suppose that the instructor goes alone to speak to the administrator and does not get a satisfactory explanation of why he has not received an assignment. (Under the Roosevelt contract, the administrator does not actually have to offer any explanation.) The instructor might then come back to the union and ask the union to investigate. What should the investigation consist of? Should the Program Rep go the administrator's office alone, or with the instructor? Which type of interview would produce the most information?

### **D. Evaluations**

1. Suppose the administrator offers, as a reason for this instructor's failing to get an assignment, something about the quality of the instructor's teaching. This might come in the form of a casual remark like: "We found someone we like better." This then becomes a question of evaluation.

2. Article 4-D, Evaluation, includes the Roosevelt University Adjunct Faculty Evaluation System among the criteria for deciding whether or not to reemploy an instructor on a permanent basis. It says that within 6 months of the contract ratification date an evaluation committee shall make recommendations to the negotiating team regarding an evaluation process. At this point - only two months after ratification -- the evaluation process is still being developed and the evaluations have not yet been carried out.

3. But Article 4-D creates a right to remediation. If the Evaluation System is not yet in place, could the union argue for the right to remediation and the additional semester anyway? What would it take for the union to argue this successfully?

### **E. Job security; seniority**

1. Look at Article 4-E, Assignments. This article contains the best the union could negotiate regarding job security: it says that in making assignments, the University "shall consider the length of service at the University based on the number of semesters teaching in the applicable program." Suppose the instructor has been teaching for many years. How will the union use this criterion in its argument? Because length of service is listed first, the union can argue that this is the most important criterion. However, note that if the instructor moves between programs, he or she will not carry his or her seniority over into the new program.

2. But consider whether the instructor is likely to be at risk under any of the other criteria listed in Article 4-E. This article mentions both administration-side criteria such as "institutional needs for specialization and/or pedagogy" and its "staffing and scheduling needs." Are there any arguments that the union can use to challenge claims regarding these needs in this case? What does the union need to know in order to make these challenges? Article 4-E also mentions instructor-side criteria. The instructor-side criteria include credentials, prior teaching experience and teaching effectiveness. Teaching effectiveness should be measured by the evaluations. If the negotiated process has not yet been implemented, there may be student evaluations in his personnel file that shed light on teaching effectiveness.

## **F. Right to review personnel files**

1. Suppose the union and the instructor decide to look in his personnel file in order to find out if there are student evaluations that will help make their case. Article 4-C says an instructor must give seven business days advance notice for looking at his file. However, according to Article 4-C-2, the instructor may not look at individual student evaluations. Also, a supervisor "may keep working files." These may be examples of lack of clarity that the union might want to clarify in a way favorable to its members.

2. What can an instructor do about not being allowed to see student evaluations? What might be in a supervisor's working file? Can the instructor and the union see the working file? What can the union do about the loss of more than a whole week while waiting to look in an instructor's file?

## **G. Retaliation, Academic Freedom**

1. Suppose that there is nothing in the instructor's file that is either helpful or damaging. Article 4-G of the contract says that the University can permanently not re-hire for other reasons, "including but not limited to" sexual harassment, carrying a weapon, etc. What might some of these other reasons be?

2. Suppose that the instructor has been very active in the union. This person has definitely stretched the potential of the Agreement as far as it can go - for example, exercising the right to participate in the college curriculum committee, despite not having a vote (see Article 2-B); pushing the University to propose an amendment to the University Senate Constitution as in Article 2-C; pushing pre-emptively for a Labor Management meeting and proposing agendas (see Article 3-B); holding the university to timelines implied in Article 3-A and 3-C, etc. The University might view this instructor as a nuisance and de-schedule him as an act of retaliation. How might the union defend a person in this situation?

3. Or, suppose this instructor had been outspoken politically and has been associated with organizations outside the University that were politically controversial? Suppose the instructor had criticized the University itself, publicly? Look at Article 4-A, Academic Freedom. It says that "an adjunct faculty member, as a citizen, shall be able to speak or write free from institutional censorship or discipline." How might the union defend such a person?

## **H. Remedy**

1. When the union creates a strategy for defending such an instructor, it needs to have a vision of what a successful settlement would look like. The remedy is usually to ask that the grievant be "made whole." What might "being made whole" look like?

- Would the union like to see the person re-hired?
- Would the union like to see the person evaluated under the new evaluation procedure?
- How would the union like to have the personnel file issue handled?

If the University argues that this settlement not be considered precedent-setting, what might be

the union's response?

### **I. Future negotiations**

1. Would this experience raise any issues that might be addressed in future bargaining? How expensive, in terms of time, was settling this grievance for the administration? Are there any pressure points in the relationship between the union and the University where the union could make headway prior to the reopening of the contract? What forums within the University does the union have a voice in where a discussion about this experience might be opened?

### **J. Management Rights**

1. What will the Union do if, in the course of defending this instructor, the University points to the Management Rights article (Article 6-C)? This article says that management retains all rights unless limited by the contract. How does the contract limit these rights?

### **K. Possible collective action**

1. Given Article 6-D, how far could collective action on the part of the union go?

## **Discussion**

In addition to showing how a Program Rep could stitch through the contract to defend a "de-scheduled" instructor, this workshop raised two other important issues. First, the determination of the standards by which faculty are evaluated should reflect the professional concerns and norms of the adjunct faculty through the union. It was clear from the discussion that the Program Reps felt ownership of these professional concerns. This claim is something the union should support and nurture: it strengthens the union as a collective force that defines professional standards through experience, training and commitment to doing the work of teaching.

The second had to do with responding to a problem through collective action. Grievance handling in the tradition of "servicing" members—rather than mobilizing members—might have treated this situation as one in which there was nothing that the union could do. (The distinction between "service model" and "organizing model" unionism has been at the core of discussions within the labor movement for at least the last ten years; good references are Richard W. Hurd, "Contesting the Dinosaur Image: The Labor Movement's Search for a Future," in Winter 1998 *Labor Studies Journal*; and the entire issue of *Labor Research Review*, Spring 1991, "An Organizing Model of Unionism.") But this exercise was intended to provide a sharp contrast to a hypothetical situation where a union representative working under a contract like this might say that there was nothing that he individually could do to defend an instructor who has been de-scheduled. In a case like that (an example of "servicing" behavior), a union rep might simply say that the contract wasn't good enough, especially if that instructor had little seniority or perhaps wasn't even technically a member of the bargaining unit. This exercise intentionally led the Program Reps away from focusing on that kind of grievance investigation and processing into "organizing model" behavior—thinking in terms of collective action, looking for every possible pressure point throughout the interface between the union and the University where the union perspective might be put forward.

In fact, it turned out that at Roosevelt a situation had already arisen in which an instructor had been de-scheduled before the evaluation process had been officially created or implemented. The union was able to



put the instructor back on the schedule for a "remedial" semester. The union was also prepared to argue that it is not realistic for a teacher to learn new approaches to teaching within one semester and that the remedial period was too short.

This exercise was also intended to show that even in this first contract there are many articles that can be used and woven together to make a strategy that might save this instructor's job. In addition to saving one person's job, if the union took as active a role as possible in defending this instructor, it would have a whole set of positive results. It would allow the union to clarify in its favor articles of the contract that are ambiguous. It would draw members to take part in forums that might have been perfunctorily attended but could be used to create pressure. It would identify problematic areas (like the 7-day requirement for personnel files) that needed to be addressed in the next contract. It would set precedents that could be cited as past practice in the future. It would fast-forward the creation of the evaluation process and establish the union as the driving force behind setting professional standards. Together, all of these would increase the level of mobilization within the union and send a message of courage and good practice to the faculty as a whole.

Organizing a new union in a workplace is hard. Getting a first contract is even harder. But the work doesn't stop with getting a contract. As is often said, the contract is just a snapshot of the power relationships between the parties at the moment it was signed. But the power relationships do not stay still just because the snapshot stays still. The power relationships change. By working on problems, by keeping the pressure up, by always treating the contract as a work in progress, the union can keep these relationships moving in the right direction.

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