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## Unionization and the Development of Policies for Non-Tenure Track Faculty: A Comparative Study of Research Universities

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# **Unionization and the Development of Policies for Non-Tenure Track Faculty: A Comparative Study of Research Universities**

Karen Halverson Cross<sup>1</sup>

## **Introduction**

As in other economic sectors, colleges and universities in the U.S. have responded to increased competition, shrinking budgets, and other challenges by relying on growing numbers of contingent faculty. For decades, U.S. higher education's "legitimizing idea" has been shifting from that of a social institution to that of an industry, or economic sector (Gumpert, 2000, p. 70). This shift is part of a broader privatization of public services in the U.S. and an intensifying societal focus on private markets. Accordingly, universities increasingly act like market participants with respect to their teaching and research functions, in part by expanding their use of non-tenure track (NTT) faculty (Lieberwitz, 2006).

One consequence of this shift is NTT faculty unionization. As the share of tenure-line faculty at U.S. higher education institutions has shrunk from the majority to a minority of academic appointments (Kezar & Maxey, 2013), institutional policies are still adapting to the shift. This growing reliance on NTT faculty has led to a wave of NTT faculty unionizations, including at private research universities.

In December 2015, ballot counters at the National Labor Relations Board (NLRB) regional office in Chicago determined, by a vote of 96-22, that NTT faculty at the University of Chicago had agreed to form a collective bargaining unit represented by the Service Employees International Union (SEIU) (Elejalde-Ruiz, 2015). SEIU's Faculty Forward initiative is a unionization effort aimed at adjunct and full-time NTT faculty around the country. The initiative focuses not only on faculty at community colleges and state universities, where faculty unionization is more firmly established, but also on faculty at private institutions, including elite universities. The movement continued to gain traction in 2016, when NTT faculty voted to establish collective bargaining units at the University of Southern California (USC), Duke University, and Boston University, among other institutions.

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Unionization responds to a perception that institutions need to do more to support their NTT faculty. Administrators and faculty broadly agree on the need to professionalize faculty of all ranks, even though actual policies and practices at universities tend to fall short of this goal (at least with respect to NTT faculty). At the same time, some administrators view unions as an obstacle to change, and collective bargaining as a constraint that impedes reform (Kezar & Holcombe, 2015).

This paper examines how policies at several research universities support and professionalize full-time, NTT instructional faculty, and considers the influence of NTT faculty unions on policy development at the institutions. Data from 60 U.S.-based institutions of the American Association of Universities (AAU) were compiled to show the proportion of instructional NTT faculty at each institution and to indicate where the NTT faculty are unionized. Policy documents from a few AAU institutions with and without collective bargaining agreements were analyzed for the presence of institutional, NTT faculty-supportive policies. One unionized and one non-unionized institution were selected as sites for interviews with faculty and administrators. The paper focuses on full-time NTT faculty, excluding adjunct faculty and graduate students (unless otherwise indicated, references to “NTT faculty” herein refer only to full-time NTT faculty).

### **Conceptual and Legal Background**

The literature provides a conceptual framework for evaluating whether university policies are adequately supporting and professionalizing NTT faculty and explains the legal context within which faculty unions influence policy development.

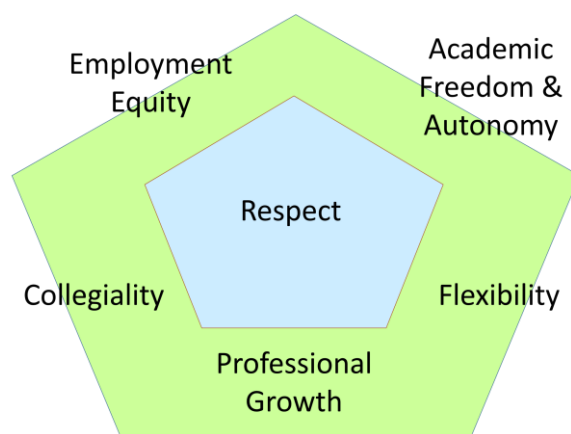
#### **NTT Faculty Policies**

The literature documents widely differing approaches with respect to institutional policies for NTT faculty, ranging from policies and institutional cultures that marginalize NTT faculty to policies and cultures that provide opportunities for promotion and career development. Baldwin and Chronister (2001) identified such a spectrum of institutional approaches to NTT employment, also finding considerable variation among institutions in terms of how completely their policies address NTT faculty (Baldwin & Chronister, 2001). Baldwin and Chronister’s (2001) finding of inadequate treatment by many institutions is confirmed in more recent work (Cross & Goldenberg, 2009; Kezar, 2012).

Using Baldwin and Chronister’s (2001) findings as a basis for analysis, Rhoades and Maitland (2008) reviewed contract provisions for full-time, NTT faculty in a dataset of collective bargaining agreements (CBAs) from the National Education Association’s Higher Education

Contract Analysis System (HECAS). Although most agreements contained equitable compensation and benefits provisions relative to non-union contracts, other recommended policies appeared in only a “minority” of union contracts (Rhoades & Maitland, 2008, pp. 72–73).

Gappa, Austin, and Trice (2007) identify key concepts that contribute to faculty satisfaction in their jobs: experiencing a sense of belonging, growing professionally, feeling respected, and having autonomy in one’s work. Drawing on these concepts, they develop a framework of essential elements of the faculty work experience necessary to achieve improved outcomes at institutions. The framework, depicted in Figure 1, is applicable to all types of faculty appointments, whether tenure-line or NTT.



*Figure 1.* Framework of Essential Elements (Gappa et al., 2007).

In this framework, the elements of employment equity (fair treatment and adequate support); academic freedom and autonomy; flexibility (ability to manage personal and professional responsibilities); professional growth; and collegiality surround the central element of respect. The framework operates in different ways, depending on faculty demographics and appointment types as well as institutional type, mission, and culture (Gappa et al., 2007). Kezar’s (2013) study of departmental culture considers this framework in a decentralized university context, finding that inclusive and learning cultures generate greater willingness on the part of NTT faculty to perform (Kezar, 2013).

Kezar (2012) maps a set of recommended policies to professionalize NTT faculty onto the elements of the framework. Recommended policies include those that address:

- Employment equity
  - standardizing hiring procedures

- defining expectations for teaching and service
- making available multi-year, renewable contracts
- providing appropriate resources to support teaching
- Academic freedom and autonomy
  - protecting faculty who participate in shared governance
  - promoting involvement in shared governance.
- Professional growth
  - evaluating performance on a regular basis
  - providing opportunity for promotion
  - making available professional development leave
  - funding participation in conferences and workshops
  - mentoring, training, and orienting
  - making eligible for teaching awards.

Institutional policies in many of these areas, particularly policies to foster collegiality, flexibility, and professional growth, are often inadequate (Kezar, 2012).

NTT faculty participation in governance is a double-edged sword. On the one hand, faculty participation in governance facilitates integration and provides valuable opportunities for navigating and working the system (Clark & Swerling, 2012; Kezar & Sam, 2014; Levin & Shaker, 2011). Similarly, exclusion of NTT faculty from governance can contribute to a perception of marginalization (Waltman, Bergom, Hollenshead, Miller, & August, 2012). On the other hand, participation can be time consuming, a particular concern for unsalaried employees. The American Association of University Professionals (AAUP) has concluded that on balance, exclusion of NTT faculty from governance is the “greater danger” to the profession (American Association of University Professors, 2013, p. 79).

### **Collective Bargaining in Higher Education**

If one considers all categories of faculty (full- and part-time as well as tenure-line and NTT), the percentage of college and university faculty that is unionized is relatively high compared with that of the U.S. workforce in general. As of 2010, only 12% of the U.S. workforce was unionized (May, Moorhouse, & Bossard, 2010). In contrast, as Figure 2 demonstrates, as of 2012, 27% of all college and university faculty was unionized, a significantly

greater share of the workforce. Indeed, the number of organized faculty in the U.S. increased by 14% between 2006 and 2012 (Berry & Savarese, 2012). The percentage of unionized faculty is particularly high at public institutions. However, NTT faculty at private institutions increasingly are organizing. Twenty-two NTT faculty collective bargaining units at private-sector higher education institutions were newly certified in 2016 (versus three at public-sector institutions) (Herbert, 2017). Increased hiring of NTT faculty has led to a second wave of unionization at U.S. higher education institutions.

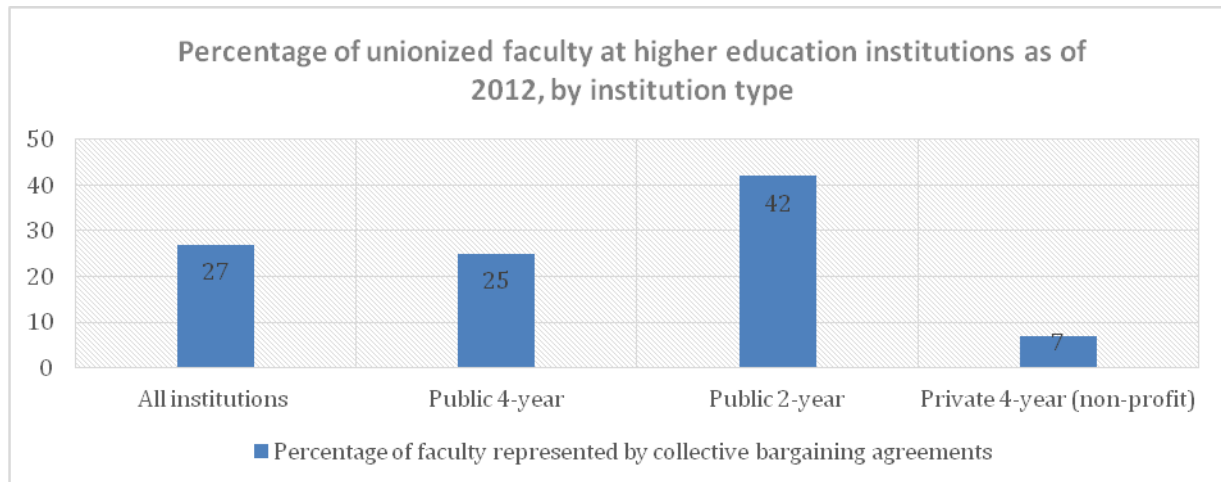


Figure 2. Percentage of unionized faculty at higher education institutions, by institution type (adapted from Berry & Savarese, 2012).

**Legal context.** Since the U.S. Supreme Court decided *NLRB v. Yeshiva University* (1980), most faculty at private institutions of higher education in the U.S. have been found to be excluded from the scope of the National Labor Relations Act (NLRA). *Yeshiva* held that faculty exercise managerial authority within a university, and therefore fall within the NLRA's implied exclusion applicable to managerial employees. At the same time, public employee collective bargaining statutes modeled on the NLRA have been enacted in most U.S. states (Russo, 2011), enabling faculty at public universities to unionize. Thus the *Yeshiva* decision highlights a dichotomy in the law governing public versus private higher education institutions. Unionization of faculty at public institutions has proceeded relatively unimpeded, at least in states with collective bargaining statutes in place. In contrast, since 1980 the *Yeshiva* decision has stymied collective bargaining efforts at most private institutions, particularly research universities where tenure-line faculty enjoy a substantial degree of autonomy and participate in shared governance (Lieberwitz, 2013). Unionization drives directed at tenure-line faculty at elite research universities also face practical hurdles, given the status and influence such faculty enjoy within these institutions (Cross & Goldenberg, 2009).

However, *Yeshiva* is not necessarily a bar to the unionization of NTT faculty at private universities, particularly if university policies marginalize them. Since *Yeshiva* was decided, colleges and universities increasingly have staffed their ranks with clinical, instructional, and adjunct faculty who typically do not enjoy the same status and authority within institutions that tenure-line faculty do. Although research universities are relatively immune from unionization drives targeted at tenure-line faculty, “[t]he same is emphatically *not* true of non-tenure-track faculty” (Cross & Goldenberg, 2009, p. 104).

With *Pacific Lutheran University and Service Employees International Union Local 925* (2014), the NLRB established a new analytical framework for determining when university faculty are managerial employees for purposes of *Yeshiva*. The decision significantly increases the burden of proof universities must meet to establish that faculty are managerial for purposes of *Yeshiva*. The opinion identifies decision-making areas that are critical to determining whether faculty exercise managerial control over university policy-making and requires the university to demonstrate that the faculty exercises “actual—rather than mere paper—authority” over these areas (*Pacific Lutheran*, 2014, p. 18). Although the decision eventually may be refused enforcement in federal court (Lieberwitz, 2013) or reversed by the NLRB, for the time being the decision has facilitated a resurgence in faculty unionization.

**Faculty unionization.** College and university faculty began to unionize during the 1960s, continuing for about two decades, until after the *Yeshiva* decision. In 2004, the number of new faculty in certified bargaining units had again reached the levels achieved during the 1970s (Dobbie & Robinson, 2008). As noted, the unionizing trend among higher education faculty appears to be continuing.

Although the early years of faculty unionization involved primarily tenure-line faculty, the current expansion in organizing activity is attributable to increasing unionization of NTT faculty. Of the more than seven thousand faculty in bargaining units that were certified in the U.S. during 2016, 71% (and 98% at private-sector institutions) were NTT faculty (Herbert, 2017). The recent increase in NTT faculty organizing may be attributed to several factors. Contingent faculty positions are no longer seen as an avenue to attaining a tenure-line position. Additionally, NTT faculty at research universities tend to be hired and supervised by department chairs—individuals who are in their positions because of the quality of their research as opposed to managerial ability (Cross & Goldenberg, 2009). Finally, the NLRB’s re-interpretation of *Yeshiva* may have encouraged union organizers to intensify their efforts.

**Unionization and faculty governance.** After the first wave of faculty unionization in the mid-1970s, unions replaced faculty senates at some institutions, but did not undermine the senate’s role at other institutions. Presidents and faculty union chairs consistently rated the senate



as relatively influential, particularly in matters of curriculum, admissions, and degree requirements (Kemerer & Baldrige, 1981). The presence of faculty unions at public four-year universities has been found to enhance faculty influence over decision-making in governance (Kemerer & Baldrige, 1981; Porter, 2013). Unions have also been found to be effective at setting standardized criteria applicable to faculty hiring and promotion, an important process for women and other underrepresented groups (May et al., 2010).

Bucklew, Houghton, and Ellison (2012) suggest the effect of a union on faculty governance varies among higher education institutions. At community colleges, for example, unions may effectively diminish the role of the senate in shared governance whereas at other institutions, the union and senate may operate in “symbiosis,” or in a cooperative manner with defined roles (Bucklew et al., 2012, p. 382). They identify four models of academic governance in faculty CBAs, ranging from comprehensive (CBAs covering traditional labor matters as well as shared governance issues) to symbiotic (CBAs refraining from addressing matters of faculty governance and deferring to the senate) (Bucklew et al., 2012).

In spite of evidence that unions can co-exist productively with faculty senates, observers have questioned whether unions are the ideal vehicle for promoting the professionalization of NTT faculty. Cross and Goldenberg (2009) suggest unionization emphasizes the separation between unionized NTT and non-unionized tenure-line faculty. Gappa et al. (2007) advocate for an interest-based over an adversarial approach to collective bargaining. Although Kezar and Sam (2014) found faculty governance and unions to be complementary vehicles for generating positive change, unions were perceived by some to “de-professionalize campuses” (p. 459).

To summarize, regardless of the fate of *Pacific Lutheran*, *Yeshiva* does not prevent the unionization of at least some NTT faculty at private institutions. The literature addressing the influence of unions on the faculty working conditions, particularly the impact on shared governance, suggests unionization has the potential to enhance faculty influence without necessarily diminishing the role of the faculty senate. The influence of unionization specifically on NTT faculty policies has not been extensively studied, particularly in the context of research universities.

## **Methodology**

Descriptive data on NTT faculty were gathered for the 60 U.S.-based members of the Association of American Universities (AAU), including (a) Integrated, Postsecondary Educational Data System (IPEDS) data on the percentage of full-time, instructional faculty (out of all such faculty) that are NTT at each institution as of 2014 and (b) data from the National Center for the Study of Collective Bargaining in Higher Education and the Professions on

whether NTT faculty were unionized as of 2012 (See Appendix). Six of the AAU institutions (referenced by pseudonyms) were selected for document analysis; their characteristics are summarized in Table 1.

Table 1

*Characteristics of Institutional Sample*

Institution <sup>a</sup>	Whether full-time, NTT faculty were unionized as of 2012	Public or private	Level of full-time, NTT instructional faculty (of all full-time instructional faculty) as of 2014 <sup>b</sup>
Alpha University <sup>c</sup>	Yes	Public	Middle
Gamma University	Yes	Public	High
Epsilon University	Yes	Public	Middle
Beta University <sup>c</sup>	No	Private	Low
Delta University	No	Private	Middle
Zeta University	No	Public	High

<sup>a</sup>Institution names are pseudonyms, and are referred to herein as Alpha, Beta, Gamma, Delta, Epsilon, and Zeta.

<sup>b</sup>Based on the institution's percentage of full-time, NTT instructional faculty reported to IPEDS relative to the other AAU institutions: low refers to the bottom quartile, middle to the two middle quartiles, and high to the top quartile.

<sup>c</sup>Institution was also selected as an interview site.

The institutions were selected primarily on the basis of whether: (a) NTT faculty at the institution were unionized; (b) the institution was public or private (with the aim of including a mix of institutions); and (c) university-level faculty policies at the institution were publicly-available, specific regarding their applicability to NTT faculty, and transparent. In addition to being geographically dispersed, the institutions are diverse in terms of their level of NTT instructional faculty (as reported to IPEDS in 2014).

The most common types of documents collected were faculty handbooks and CBAs. However, relevant policies were found in other documents, such as the university's hiring manual or its paid leave policy. Anecdotal evidence relating to relevant school- and department-level policies and practices was also gathered during the interviews. These data provide context on policy development and implementation. With the exception of one policy document that was emailed to the researcher, the documents are publicly available on the Internet.

Out of the group of six institutions, two institutions (one public and unionized, the other private and not unionized, referred to in Table 1 as Alpha and Beta, respectively) were selected as sites for recruiting and conducting in-depth, semi-structured interviews. Of the 11 interview

subjects, six were from Alpha<sup>2</sup> and five from Beta. The interviews were conducted in early 2016, either by telephone or in person; most lasted about an hour. Questions addressed (a) aspects of institutional policies not clearly addressed in the policy instruments; (b) policy implementation; (c) historical development of policies, including, if applicable, the influence of NTT faculty unionization on their development; and (d) the interview subject's assessment of how unionization of NTT faculty has influenced/might influence NTT faculty support and professionalization at the institution. A draft of the interview protocol was sent to each subject in advance of the interview. Follow-up questions were sent by email to two of the subjects. Each interview was audio-recorded and transcribed by the researcher. In order to keep confidential interview subjects' identities, the subjects are not referred to by name, and the institutions in the sample are referred to by pseudonym.

Certain decisions regarding study design were made to enhance the reliability of the findings. Multiple institutional policies were selected for review, including faculty handbooks, other relevant policy documents, and CBAs. In order to gather interview data representing multiple viewpoints, the researcher recruited administrators, tenured faculty, and NTT faculty (including union members) from each of the two interview sites. The interview subjects include individuals who have direct experience with unions and/or are expert in labor relations. The researcher has no affiliation with any of the institutions described in Table 1.

## **Findings**

To review, this paper examines how policies at research universities support and professionalize their NTT faculty, and considers the influence of faculty unionization on policy development. The document analysis and interview data compare policies among several unionized and non-unionized institutions. Interview data demonstrate the influence of unionization on NTT faculty support and professionalization as well as the factors influencing unionization.

## **Comparison of Policies**

Table 2 summarizes institutional policies at the six institutions studied. In defining the categories in the table, the objective was to focus on policies the literature suggests are particularly important for NTT faculty professionalization.

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<sup>2</sup> One of the three NTT faculty interviewed at Alpha was a former, part-time NTT faculty member.

Table 2

*NTT faculty policies at six research universities*

Type of policy <sup>a</sup>	Alpha University (unionized; public)	Beta University (not unionized; private)	Gamma University (unionized; public)	Delta University (not unionized; private)	Epsilon University (unionized; public) <sup>b</sup>	Zeta University (not unionized; public)
<b>1. Employment equity</b>						
a. Standardized hiring procedures	Yes, for appointments of two semesters or longer (other)	Yes, except for temporary appointments that terminate in one year or less (HB)	Yes (CBA)	Varies by unit (HB)	Yes (other)	Yes (other)
b. Access to office space and other teaching resources	Yes (CBA)	Not specified	Yes (CBA)	Not specified	Yes (CBA)	Not specified
c. Defined expectations for teaching and service	Yes (HB)	Yes (HB)	Yes (CBA)	Yes (HB)	Yes (CBA)	Varies by unit (other)
d. Multi-year contracts	Available (CBA)	Yes (HB)	Available (CBA)	Varies by unit (HB)	Available (CBA)	Available (HB)
<b>2. Academic freedom</b>	Extends to NTT faculty (CBA); policy addresses participation in governance (HB)	Extends to NTT faculty (HB)	Extends to NTT faculty (CBA); policy addresses participation in governance (HB)	Extends NTT faculty (HB)	Extends to NTT faculty (CBA)	Not specified
<b>3. Participation in governance; right to vote</b>	Yes (CBA); faculty must recuse themselves as to matters relating to "wages, hours, or supervisory functions"	No right to participate or to vote (HB)	No participation in senate (voting body); assembly open to NTT faculty (HB)	Yes (HB)	No (HB) <sup>b</sup>	Yes (HB)
a. University-level governance bodies						
b. School and department level	Yes, if unit allows it (CBA)	Varies by unit; NTT faculty have right to participate for decisions "directly related" to roles within unit (HB)	Varies by unit (HB)	Yes, except for tenure decisions (HB)	Not specified, except that service on certain committees counts towards workload (CBA)	Varies by unit; NTT faculty generally are responsible for matters relating to teaching (other)
<b>4. Professional development</b>						
a. Performance evaluation	Yes (CBA and HB)	Not specified	Yes (CBA)	Varies by unit (HB)	Yes (CBA)	Varies by unit (HB)

Cross: Unionization and Non-Tenure Track Faculty

Type of policy <sup>a</sup>	Alpha University (unionized; public)	Beta University (not unionized; private)	Gamma University (unionized; public)	Delta University (not unionized; private)	Epsilon University (unionized; public) <sup>b</sup>	Zeta University (not unionized; public)
b. Opportunity for promotion	Yes (HB)	Yes (HB)	Yes (CBA)	Varies by unit (HB)	Yes (CBA and HB)	Not specified
c. Leave to pursue professional development	Paid leave available (CBA and HB)	Paid leave available (other)	Unpaid leave available (CBA)	Varies by unit (HB)	Paid leave available (CBA)	Unpaid leave available (other)
d. Funding to attend conferences	Not specified	Not specified	Yes (CBA)	Not specified	Yes (CBA)	Not specified
e. Mentoring, training, and orientation	Not specified	Not specified	Orientation (CBA)	Not specified	Mentoring (CBA)	Varies by unit (HB)
f. Eligibility for teaching awards	Not specified	Not specified	Some awards are available to NTT faculty (HB)	Not specified	NTT faculty are eligible (CBA)	Not specified
<b>5. Grievance procedures</b>	Applicable to disputes arising out of the CBA; grievances over merit increases, academic matters, or appointments not subject to arbitration (CBA); HB also provides a grievance procedure.	Varies by unit, but subject to institutional standards. Not applicable to disputes about reappointment or promotion; limited internal review available for adverse decisions on promotion or contract renewal (other).	Applicable to disputes arising out of the CBA (CBA); certain non-renewal decisions are subject to special appeal and are grievable only for procedural violations; HB also provides a model grievance procedure.	Grievances over disputes about reappointment or promotion are limited to procedural violations, issues of illegal bias or academic freedom (HB).	Applicable to disputes arising out of the CBA; reappointment disputes are only grievable for procedural violations; grievances about discrimination or academic freedom are subject to special procedures (CBA and HB).	Grievance procedure does not apply to disputes over negative evaluations, salary disputes, or contract non-renewal (HB). Non-renewal of NTT faculty contracts can be appealed on limited grounds (other).

<sup>a</sup>Source of each policy (collective bargaining agreement (CBA), handbook (HB), or other policy document) is indicated in parentheses. <sup>b</sup>The Epsilon Academic Personnel Manual provides for two types of full-time lecturer appointments: (a) lecturers with the potential for security of employment, who are academic senate-eligible and are not included in the bargaining unit; and (b) other lecturers, who are included in the bargaining unit. Only policies applicable to the latter category of lecturers are summarized in Table 2.

Three of the policy categories—employment equity, academic freedom, and professional development—derive from the Gappa et al. (2007) framework. Participation in governance is included in light of its significance as a vehicle for facilitating NTT faculty inclusion and development (Kezar, 2012; Kezar & Sam, 2014). Participation in governance has legal significance as well, as it is central to determining whether NTT faculty are managerial employees for purposes of *Yeshiva*. Finally, since the union grievance process emerged as an important theme from the interviews, the table compares policies relating to faculty grievances at the six institutions.

Notably, each of the three CBAs studied addresses a broad range of NTT faculty-supportive policies. They address each of the employment equity-related types of policies listed in Table 2, affirm that academic freedom extends to NTT faculty, and provide for at least some professional development policies. With the exception of participation in governance, Gamma's and Epsilon's CBAs include examples of every recommended policy in the table.

In contrast, a few of the policies addressed in the CBAs were not addressed in any of the institutional policies of the non-unionized institutions. Gamma's CBA requires the university to provide NTT faculty access to all resources "reasonably necessary" to fulfill their duties, including office and desk space, a computer, office or instructional equipment, office supplies, photocopying, an email account, and library privileges. Although the other CBAs contain analogous provisions, the non-unionized institutions do not have such policies. Similarly, Alpha's CBA requires each academic unit to establish and communicate procedures and criteria for annual teaching performance reviews. Such procedures and criteria must be consistent with commonly-accepted standards in the unit for evaluating comparable work. Units are encouraged to use multiple sources to document teaching performance (i.e. rely on more than student teaching evaluations). The other CBAs similarly require academic units to perform regular performance reviews, but there are no comparable institutional policies at the non-unionized institutions.

Finally, each of the institutions in Table 2 provides a procedure by which faculty may present grievances relating to his or her employment, whether in the faculty handbook or in the CBA. The CBAs generally require more process for the aggrieved faculty member than do the policies of the non-unionized institutions. Additionally, the CBA grievance procedures (but not the procedures at the non-unionized institutions) ultimately provide for third-party arbitration of grievances that cannot be settled internally.<sup>3</sup>

Comparisons across institutions are complicated by variations among policies as well as the fact that there may be multiple types of full-time, NTT instructional positions at a given institution. For example, some of Epsilon's NTT faculty—lecturers with the potential for security of employment—are not included in the bargaining unit. In the interest of simplicity, only the Epsilon policies applicable to the unionized NTT faculty are summarized in the table.

### **Influence of Unions on NTT Faculty Support and Professionalization.**

Although responses varied, most of the interview respondents acknowledged both positive (policy development, protection against administrative action) and negative (oppositional

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<sup>3</sup> Delta's faculty handbook allows for arbitration of certain grievances if both the grievant and the university president agree to arbitration after the dispute has arisen.

posture, segregation from tenure-line faculty) effects of unionization on the professionalization of NTT faculty.

**Policy development and implementation.** As discussed, the CBAs of the three unionized institutions address a broad range of faculty-supportive policies, including policies on matters not addressed in the institutional policies of the non-unionized institutions. Unions thus appear to play a role in developing NTT faculty-supportive policies. The interview data confirm this, and also suggest unions foster awareness of NTT faculty concerns and promote policy implementation in schools and departments.

*Standardized appointments procedures.* Interviews from both unionized and non-unionized institutions highlighted the importance of using consistent and transparent procedures for faculty appointments. Alpha's policy generally requires an open, national search for faculty appointments. But when faced with pressing need for an instructor, departments at times hired a spouse, graduate student, or acquaintance to fill in on a temporary basis but retained the instructor after the semester ended. As an NTT faculty member at Alpha observed:

[T]hat informality... leads to part of the craziness, because [the department] did not actually make a search committee that... reviewed applications. The faculty don't have buy-in to the individuals who are being hired... I don't think they actively resent it, it's just that they haven't bought in.

Similarly, a Beta committee on the status and employment conditions of NTT faculty found inconsistent practices across units with respect to the use of professional titles.

*Multi-year contracts.* The vast majority of Beta's instructional NTT faculty are appointed to three- or five-year, renewable contracts. In contrast, multi-year appointments were not generally available to NTT instructional faculty at Alpha until those faculty unionized. Alpha's CBA allows NTT faculty who have taught (more or less continuously) during a six-year period to apply for appointment to renewable, three-year contracts. A NTT faculty member referred to this provision as "the big coup" for the union when it negotiated its first CBA with Alpha.

The intent behind the multi-year provision was to make a tenure-like process available to those NTT faculty who meet the criteria. According to an Alpha administrator, the idea was to "mirror the promotion and tenure process but focus only on the teaching aspects." Notably, even six years after the first CBA was negotiated, only 44 out of approximately 600 NTT instructional faculty at Alpha—or 7% of such faculty—had been approved for multi-year contracts under this provision. The low percentage may be attributable in part to the rigor of the application process, which was modeled after the promotion and tenure process. It is also possible that NTT faculty are not aware of the opportunity to apply for multi-year contracts. A faculty member at Alpha

admitted that until the issue was raised during the interview, he had been unaware NTT faculty in his department might be eligible for multi-year contracts.

When asked about whether the union had changed things for NTT faculty at Alpha, a union member agreed that it had, referencing the availability of multi-year contracts and the requirement of regular performance evaluations: “When we started, we had people that had been [at Alpha] 32 years, on 32 one-year contracts. And that’s gone. And that gives people a sense of being, a sense of continuity.” A fellow union member concurred, commenting that these policy changes give NTT faculty the sense that “they can’t just be thrown out the door.”

*Academic freedom.* Kezar (2012) emphasizes the importance of policies protecting academic freedom as a way to promote NTT faculty participation in shared governance. To this end, the faculty handbook at Gamma, a unionized institution, defines academic freedom to include “freedom of internal criticism”:

Faculty members, because of their education and their institutional knowledge, play an indispensable role as independent participants in university decision making. By virtue of this role, they are entitled to comment on or criticize University policies or decisions, either individually or through institutions of faculty governance

Gamma’s CBA affirms that these academic freedom rights extend to NTT faculty.

Indeed, most institutions in the sample have policies that reference academic freedom as a right enjoyed by all members of the university community, including NTT faculty. Yet in practice, NTT faculty may not experience academic freedom in the same way tenure-line faculty do. At Alpha, the NTT faculty union members who were most involved in negotiating the CBA were those who were not afraid of losing their jobs because they had ways of stabilizing their positions at the university. As a Beta administrator acknowledged, “at the margin,” NTT faculty may be afforded less protection by virtue of the fact that their contracts are renewable. At the same time, a tenured Beta faculty member noted that the tendency to refrain from exercising academic freedom rights is not limited to NTT faculty: “Everybody needs stuff, and everybody wants a good relationship.” Thus the ideal of academic freedom does not necessarily translate into practice.

*Participation in governance.* The interviews suggest participation in faculty governance at the university level is not a high-stature activity. Administrators at both institutions commented on the low prestige associated with serving on the faculty senate; an NTT faculty member at Alpha concurred, referring to faculty governance at the university level as a “time sink.”



On the other hand, a tenured faculty member and expert in labor relations at Beta observed how shared governance can function like a union, even though administrators increasingly do not respect it:

[T]here is a whole spectrum of ways that people organize. And so the shared governance model of universities is itself a way of organizing collectively. . . . it can be very frustrating because university administrations do not always respect shared governance, and more and more they respect it less and less. But when you have a shared governance process without a union, if it is an effective one, it can act very much the same as if you've got a union.

Two of the three CBAs in the sample do not address unionized faculty participation in university governance, and the third merely affirms such participation is permitted to the extent consistent with university policy. The CBAs in the sample tend to illustrate Bucklew et al.'s (2012) symbiotic model of academic governance.

At the school and department levels, policies at both institutions generally leave NTT faculty participation in governance up to the academic units. But Beta's handbook guarantees the right of NTT faculty to participate in decisions that are "directly related" to their roles within a college or school. Since the policy leaves it to the dean or department chair to determine what "directly related" means, implementation of this requirement has varied among academic units; when departments with a large share of NTT faculty have limited such participation, Beta's administration has intervened, directing departments to comply with the handbook policy.

At Alpha, conclusion of the first CBA with the faculty union prompted schools and departments to amend their bylaws to allow greater participation of NTT faculty in governance. As a NTT faculty member recounted, NTT faculty in his department had been unable to serve on committees, even where they had significant relevant experience. Certain faculty were reluctant to give up control, fearing that giving instructional NTT faculty voting rights might lead them to "do something that would be hostile for research." In contrast, other departments at Alpha have long included NTT faculty in governance. One tenured faculty member described a NTT faculty colleague who is particularly active in the department: "We all value his contributions, he's taken initiative. He leads a monthly discussion group... People would be upset if anybody proposed [he] needed to go, in my opinion, because he's just become such an important part of the community." The colleague had become so involved as to make himself practically indispensable to the department.

*Evaluation and promotion.* One of the more striking differences between unionized and non-unionized institutions in the sample relates to institutional policies on evaluation of NTT faculty: although the unionized institutions all have formal policies, the non-unionized

institutions do not. Notably, the faculty handbook of Epsilon, a unionized institution, provides a process of evaluation, promotion, and security of employment for a category of its NTT instructional faculty that operates similar to the tenure process. Lecturers who are appointed “with potential for security of employment” are reviewed for their achievements in teaching, professional activity, and service to the university and to the public. If promoted, the appointment cannot be terminated except under circumstances analogous to the dismissal of tenured faculty. However, full-time lecturers with potential for, or who have, security in employment are not unionized.

Alpha’s CBA requires the university to establish procedures and criteria for annual performance reviews of its NTT faculty, and the handbook implements this requirement. Both the NTT faculty union and Alpha’s administration agreed on the need for this requirement. When the CBA was negotiated, there were NTT faculty who had been at the university for over a decade and never evaluated. As one NTT faculty member observed, such faculty not only “had no idea” how they were doing in their positions, they also had no paper trail to substantiate any potential claim of wrongdoing in the event of dismissal. Alpha’s administration agreed to require regular performance evaluations in part because the union was seeking longer contracts. Although the evaluations may not always be in-depth, NTT faculty at Alpha are now evaluated on an annual cycle similar to tenure-line faculty. This institutional requirement prompted Alpha’s professional development office to offer new programs on evaluating faculty teaching.

In contrast, institutional policies at the non-unionized institutions generally leave evaluation of NTT faculty to the academic units. At Beta, there is no institutional policy establishing or requiring a procedure for evaluation of NTT faculty. As several faculty at Beta explained, the process tends not to be formalized and varies greatly among the departments and schools.

*Consistent support across units.* Administrators and faculty at Alpha and Beta repeatedly commented how policies and policy implementation vary among academic units because of the university’s decentralized structure. An argument in favor of institutional policies for NTT faculty is it ensures a minimum level of support across units; unionization may serve as a catalyst for the adoption of such policies. An administrator in charge of professional development at Alpha, a unionized institution, highlighted the importance of providing centralized support within a decentralized university structure:

[W]hat centralized services does is that it creates equity and balance so that everybody is assured access to some modicum of professional development, which compensates for the difference among the units in their commitment to professional development or their resources.

On the other hand, within the constraints institutional policies impose, academic units seek room for variation. As a faculty member at Alpha observed, there is a “fine balancing act” between having consistent policies and allowing academic units needed discretion and flexibility.

To summarize, responses from interviewees at Alpha generally corroborate the notion that unionization may promote professionalization of NTT faculty through policy development. But shared governance at non-unionized institutions can play a role analogous to that of a faculty union; the work of the ad hoc committee on the status of NTT faculty led to greater inclusion of NTT faculty in shared governance at Beta.

**Protection against arbitrary administrative action.** Alpha’s CBA allows a NTT faculty member to present grievances concerning any alleged violation of the CBA. The grievance procedure is a three-step process, involving (a) presentation of the grievance to the employee’s immediate supervisor; (b) if such action is unsuccessful, presentation of the grievance at a meeting with a central administrator; and (c) if the meeting is unsuccessful, presentation of the grievance before a labor arbitrator. A union representative represents the employee at all phases of the process. As a NTT faculty member describes it, the CBA grievance process gives NTT faculty an additional layer of protection against wrongful termination, or, as he put it, against “easy disposal for potentially no reason.”

An Alpha administrator concurred as to the importance of the grievance mechanism. As he observed, NTT faculty are more vulnerable to arbitrary action than are tenure-line faculty:

The concerns of NTT faculty are similar to the concerns of other faculty but are more acute, and often it has to do with the—I’ll use the phrase ‘rogue administrator’—the administrator that is doing things that are not in compliance with... policy. If you are a tenured faculty member and that happens, maybe you just go down to the office and yell at the chair... You may not feel that you have the ability to do that if you are a NTT faculty member. You need the power of the collective to address those situations.

Thus a significant role of a faculty union, and of the grievance procedure within a CBA, is to address the potential for arbitrary administrative action taken against a NTT faculty member.

To highlight the role the union can play in this context, several NTT faculty at Alpha recounted an incident involving sexual harassment allegations against a NTT faculty member. When the faculty member’s dean learned of the alleged harassment and summarily fired him, the union filed a grievance; ultimately it was determined that the harassment charges were unfounded. The union’s vindication of the rights of the accused faculty member in that instance sent an important signal to other NTT faculty. As a former NTT faculty member observed: “they know that if anything happened, there is somebody there that will speak up for them.” In addition

to formal representation, the union supports NTT faculty in other ways, such as by advising them of their contractual rights.

Beta has adopted an institutional policy requiring its schools to establish grievance procedures covering NTT faculty, but these procedures do not apply to complaints about appointment, reappointment, or promotion. A document exists that outlines procedural rights applicable to adverse employment decisions affecting NTT faculty, including the right to notice and to appeal the decision for arbitrariness or procedural violations, but the document is not accessible online. The interviews suggest few faculty, NTT or otherwise, are aware of Beta's grievance procedures, or would invoke the procedures if aware of them. As a tenured faculty member at Beta observed:

You have to weigh the pros and cons of doing it. Do I want to go through a process like that? Does that engender hostility towards me?... Even if I win, maybe I win this battle and now I have been put into some category of, you know, creating hostility towards me.

None of the faculty interviewed at Beta could cite an instance where the grievance procedure was invoked by a NTT faculty member.

To summarize, each of the NTT faculty interviewed at Alpha referred to the grievance procedure, and to the union's participation in that procedure on behalf of individual NTT faculty members, as an important safeguard. The response at Beta was notably different, which in part could be attributed to the fact that Beta's formal grievance procedure does not apply to disputes over non-renewal of contracts. At the same time, NTT faculty at Beta appear to have greater job security than those at Alpha. NTT faculty at Beta routinely are appointed under multi-year contracts, and perceive their positions as relatively secure.

**Oppositional posture with administration.** Collective bargaining is described as a process that places employees in an adversarial posture with the employer (Gappa et al., 2007). The interview data generally confirm this perception. A faculty member and labor expert at Beta explained how the dynamic between unionized employees and management is inherently adversarial, even in a university setting:

The employers for the most part are still going to be anti-union. . . . But the tactics they use may be very different. And so it may look like it's not confrontational, in the sense of some obviously nasty leaflets going out from the employer... But it's still oppositional. Any time you have a union campaign you have people in opposition.

As the faculty member noted, the university setting is one where employers may be particularly inclined to appeal to the rhetoric of family and working out issues among themselves, as opposed to unionizing. Similarly, when asked hypothetically how unionization of NTT faculty might

affect the climate at Beta, an administrator replied he would not view it “as a happy development,” even for the unionized employees.

When NTT instructional faculty voted to form a bargaining unit at Alpha, the unionization process was not overtly confrontational. One tenured faculty member said he was unaware the NTT faculty had unionized until the interview. Alpha’s administration had experienced a previous, contentious but unsuccessful, attempt to unionize the tenure-line faculty. In spite of this history, administrators did not actively campaign against the NTT faculty union, and took a relatively pragmatic approach to negotiating the union’s first CBA. At the same time, it did not adopt a closely collaborative stance with the union. A NTT faculty member described the Alpha administration’s response to an impassioned appeal the union made during negotiation of the first CBA:

[O]ne of our main arguments was, ‘We are you. We are your spouses, we are your friends and your colleagues... we want to participate, we want to make the university a better place.’ [T]hey were completely stone-faced and there were no questions and no interaction with the presentation... [B]ut for the [NTT] faculty, it was actually very emotional... [F]or them... I think it identified their feelings about the situation.

Although the union’s appeal resonated deeply with Alpha’s NTT faculty, it met with an impassive response from the administration.

On the other hand, unionization may have prompted a greater awareness of and engagement with NTT faculty at Alpha. As one NTT faculty member observed:

Before I don’t even think [NTT faculty] were on the radar, and that led to all kinds of abuses and also it just didn’t leverage this resource to its maximum potential. There are ways that this community has time and talents and interests that would totally dovetail with the mission of the university and legitimizing it would have huge effects, and I think it did have huge effects. So now there are discussions of, there’s a culture now of addressing this group.

Over time, the faculty union and administration developed a more established working relationship. After the first few years, as the CBA’s requirements became standardized, there evolved a somewhat grudging, but accepting, attitude towards the union within the institution.

***Segregation from tenure-line faculty.*** As noted, unionization can reinforce the NTT faculty’s separate status within an institution (Cross & Goldenberg, 2009). The interview data confirm this finding. NTT faculty at Alpha commented on academics’ individuality and independence as making it difficult for them to adapt to the culture of a union. One similarly referred to academics’ sense of identity as a potential barrier to organizing:

I think the identity piece is the most interesting... [H]onoring what it is that people want to be identified as, and the types of relationships they would like to have with their colleagues, is kind of the challenge. Because how do you protect this group without setting them apart?

This faculty member was surprised to learn how strongly people reacted to the idea of a faculty union—either extremely in favor of or opposed to it.

When asked hypothetically about the impact unionization might have on Beta's faculty, several responded that it would have an isolating effect. A Beta administrator described it in terms of status:

[A] major issue for [NTT faculty] is the sort of second-class citizen thing... It takes different forms, about respect, and about credit for efforts, and about compensation. Unionizing might create some traction on some fronts, in terms of salary differentials. But it would also exacerbate a sort of differentiation between those faculty.

A NTT faculty member who expressed his strong support of unions similarly was doubtful unionization would improve the situation for NTT faculty at Beta:

Things would have to get really bad [laughs] for something like that to happen... But that's because lecturers are well treated. And so I think that's why people would be very skeptical of trying it, they would be like 'why would we do that, it would just make everybody mad at us?'

He contrasted the situation for NTT faculty at Beta with that of graduate students, who he suggested might benefit from unionization.

Thus the interview findings addressing the effects of unionization on NTT faculty are mixed. They corroborate findings from the document analysis suggesting that unions promote the development of supportive policies and provide a measure of protection for NTT faculty against arbitrary administrative action. But they also suggest collective bargaining may inhibit NTT faculty inclusion, due to inherently adversarial nature of the process and its potential to separate NTT faculty from other faculty.

### **Factors Affecting Unionization.**

Besides the general working conditions at an institution—pay, workload, and fringe benefits—several additional factors influencing unionization (or the absence of a union) came up in the interviews: lacking a critical mass of NTT faculty; perceptions of job security and status held by NTT faculty; and efforts of union organizers.

Interview participants at Beta consistently observed how NTT faculty have shown little interest in unionizing, referring to the low percentage of NTT faculty there as a factor. As indicated in Table 1, the percentage of full-time, NTT faculty at Beta is in the bottom quartile of U.S.-based, AAU institutions. Although some departments at Beta utilize NTT faculty for budgetary reasons and in greater numbers, the overall low percentage of NTT faculty contributes to a perceived sense of job security. The lack of a critical mass of NTT faculty at Beta would make it difficult to launch a union campaign there. As a faculty member explained, such a campaign “would be in departments where you have a greater concentration of NTT faculty... it really needs to be strong and deep, instead of broad and shallow.”

Indeed, respondents at Beta characterized NTT faculty positions there as relatively stable and secure. Years ago, concerns over job security arising out of the restructuring Beta’s modern languages department prompted the faculty senate to appoint an ad hoc committee to investigate and make recommendations concerning the status of NTT faculty at Beta. However, the vast majority of such faculty have long been on multi-year contracts. As a NTT faculty member at Beta observed, it is “pretty rare” for a lecturer to be dismissed, or for a contract to be denied renewal. Another described NTT faculty in her department as “niche” people with specific and specialized roles that are not easily replaceable; she observed how NTT faculty at Beta tend not to lose their positions: “it just doesn’t happen. People have these jobs, I mean they die in these jobs [laughs]. They’re great jobs.”

In contrast, NTT faculty at Alpha described the perceived low status of NTT faculty there. Both NTT faculty and an administrator referred to job security as a principal concern of Alpha’s NTT faculty union. Indeed, the union feared retaliation by the administration even after it was formed, which led to a tendency towards detail when drafting the CBA. Thus both faculty and administrators at Alpha acknowledged that a principal objective of the NTT faculty union was to improve the job security of its members.

But respondents also consistently attributed unionization at Alpha to the concerted efforts of union organizers. The union spent significant resources over several years on organizing, hiring several staff for the Alpha campus. An Alpha administrator suggested such efforts were part of a state-wide, systematic campaign to organize faculty on college campuses. The political influence of the labor movement in the state may have inhibited the administration from publicly resisting the unionization effort.

In conclusion, the interview data address potential advantages as well as limits of unionization for professionalizing NTT faculty, and identify factors that may influence the unionization of NTT faculty at an institution. The implications of these findings are explored below.

## Discussion

Both unionized and non-unionized universities in the sample developed policies specifically addressing issues facing NTT faculty. Although no single institution addressed *every* type of policy recommended in the literature (Baldwin & Chronister, 2001; Gappa et al., 2007; Kezar, 2012), many addressed most of them. Some policies—such as Gamma’s definition of academic freedom or Epsilon’s tenure-like process of evaluation and promotion of instructional faculty—could serve as exemplars for professionalizing and supporting NTT faculty. The CBAs in the sample tend to be more comprehensive than the policies at non-unionized institutions in terms of establishing standards for the support and professionalization of NTT faculty. Similarly, the CBA grievance procedures applicable to contract non-renewal generally apply more broadly than those of the non-unionized institutions. However, institutional comparisons do not capture how consistently policies are implemented.

In some respects, the interview data confirm studies emphasizing the importance of NTT faculty participation in shared governance as a means of promoting integration with other faculty (Clark & Swerling, 2012; Kezar & Sam, 2014; Waltman et al., 2012). Active engagement of NTT faculty in the life of a department can help them become an integral part of the community, and consequently more difficult to replace. Conversely, excluding NTT faculty from governance may be isolating as well as counterproductive, particularly as to matters on which NTT faculty have specific expertise. Even if academic freedom policies extend to NTT faculty, as a practical matter such faculty may be hesitant to fully exercise their academic freedom by speaking out on important matters. Additionally, involvement in the faculty senate (or comparable university-level governance body) may not be valued at some institutions. But when effective, shared governance might function similar to collective bargaining, a possibility addressed below.

## Unionization

Independent of the policy environment at an institution, the decision of a union to target an institution or industry sector in a particular state or region likely will be a factor influencing unionization, as it was for Alpha. Concern about job security is also a factor; a central objective of the NTT faculty union at Alpha was to improve the job security of its members. In contrast, the lack of interest in unionizing among Beta NTT faculty was attributed to the absence of a critical mass of NTT faculty there. Of the three non-unionized institutions in the institutional sample, only Beta was not facing a unionization drive at the time of data collection. Beta is also the only institution from the sample that is in the lowest quartile of AAU institutions regarding percentage of NTT faculty (Table 1). Additionally, the vast majority of NTT faculty at Beta are hired on multi-year contracts and rarely lose their positions.



The interview data suggest there are both positive and negative aspects of unionization in terms of its potential to professionalize NTT faculty, a finding that is consistent with the literature, although the literature is somewhat divided on the relative advantages and disadvantages of faculty unions (Cross & Goldenberg, 2009; Gappa et al., 2007; Kezar & Holcombe, 2015; Kezar & Sam, 2014). The paragraphs below address the pros and cons of unionization and consider the extent to which existing institutional policies relating to faculty governance and grievance procedures might function as an effective substitute for unions.

**Policy development.** Notably, each of the three CBAs in the sample addressed not only wages and fringe benefits, but also most of the recommended policies identified in the literature. In particular, the interview data highlight the importance of job security to Alpha's NTT faculty union, and all three CBAs provide for the availability of multi-year contracts, although only for those NTT faculty who successfully apply for it (Table 2). Negotiation of the multi-year contract provision in Alpha's CBA was perceived as the union's most significant achievement, even though a relatively low percentage (7% of instructional NTT faculty) successfully applied for multi-year contracts in the six years since the first CBA went into effect. It is possible that the mere *potential* for promotion to multi-year contracts, combined with the requirement of standardized, annual performance reviews of NTT faculty, together contribute to a greater sense of job security for NTT faculty. The availability of a grievance procedure may also promote a sense of security.

The finding that CBAs are a significant source of recommended policies can be contrasted with Rhoades and Maitland (2008), who found that, other than wage and salary provisions, only a "minority" of CBAs address other policies for professionalizing NTT faculty (p. 73). Their dataset comprised CBAs in HECAS, a database of higher education CBAs that includes faculty union contracts. The difference in findings might be attributable to the fact that the Alpha, Gamma, and Epsilon CBAs were concluded five or more years after the CBAs referenced in Rhoades and Maitland's (2008) study. Additionally, the NTT faculty unions at Alpha, Gamma, and Epsilon are all represented by the American Federation of Teachers, whereas the HECAS database likely is made up of NEA union contracts, or possibly a variety of union contracts. Finally, Alpha, Gamma, and Epsilon are all research universities whereas the HECAS database includes agreements concluded with a variety of colleges and universities, including two-year institutions.

**Protection against administrative action.** As the interview data revealed, NTT faculty are more vulnerable than are tenure-line faculty to the wrongful or arbitrary acts of the so-called "rogue administrator," and may need to resort to the union grievance process to address such situations. Subjects at Alpha and Beta gave contrasting impressions of the grievance processes available to NTT faculty. The NTT faculty interviewees at Alpha consistently characterized the

CBA grievance procedure as an important protection, whereas those at Beta indicated the grievance mechanism was rarely utilized, although this may be in part because they perceive their positions as relatively secure. In addition to its broader scope, the Alpha CBA provides (a) that the union may represent the NTT faculty member at all stages of the grievance process; and (b) if the dispute cannot be resolved internally, it is to be submitted to a neutral arbitrator for resolution,<sup>4</sup> and the arbitrator's fees are to be paid by the union and the university. Neither of these protections is part of Beta's faculty grievance procedure.

The example of the NTT faculty member at Alpha who was accused of sexual harassment raises the issue of so-called *Weingarten* rights. In *NLRB v. J. Weingarten, Inc.* (1975), the U.S. Supreme Court upheld the right of a unionized employee under the NLRA to have a union representative present at any investigatory meeting of the employer that the employee reasonably believes could lead to discipline. Whether *Weingarten* rights apply to unionized employees in the public sector would depend on state law. In any event, *Weingarten* rights are an additional procedural safeguard that could protect unionized NTT faculty against the wrongful or arbitrary act of a "rogue administrator."

**Inhibiting integration.** Interview respondents from both institutions referred to the potentially isolating effect of unionization for NTT faculty, consistent with similar findings from the literature (Cross & Goldenberg, 2009). Additionally, the interviews confirmed the literature characterizing the management-employee relationship in a unionized setting as inherently oppositional (Gappa et al., 2007).

Indeed, for years the literature on collective bargaining has advocated reorienting the CBA negotiation process away from traditional confrontation and towards collaborative, joint problem-solving approaches to negotiation (Gittell et al., 2004; Paquet, Gaétan, & Bergeron, 2000; Peace, 1994; Susskind & Landry, 1991). Collaborative approaches to collective bargaining have been utilized in the higher education context; the negotiation of a CBA between the University of Cincinnati and its faculty union is one such example (Susskind & Landry, 1991). In spite of such approaches to collective bargaining, one cannot escape the fact that unionized NTT faculty and university administrators are on opposing sides of a negotiation, and to that extent the collective bargaining process could be an impediment to NTT faculty inclusion.

**Existing policies as a substitute for unions?** The example of Beta's ad hoc committee on the status of NTT faculty illustrates how shared governance can serve a union-like function within a higher education institution. Yet the paper's findings raise questions about the effectiveness of shared governance as a substitute for unions in terms of supporting NTT faculty.

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<sup>4</sup> Certain disputes are excluded from arbitration, including disputes over "merit increase decisions, academic matters, and appointments."

At some institutions, including Beta, NTT faculty are not eligible to vote at or participate in the faculty senate, which undermines the effectiveness of such a body as a voice for issues of concern to NTT faculty. Additionally, the fact that NTT faculty lack the same degree of job security as tenure-line faculty affects their willingness to get involved in politically-sensitive issues. Grievance procedures at non-unionized institutions tend to apply to a narrower range of disputes than do CBA procedures, and tend not to allow NTT faculty the right to request arbitration of disputes by a third-party neutral. Finally, NTT faculty unions provide a valuable service to a NTT faculty member who faces the possibility of discharge or discipline—whether as a formal representative or as an advisor to the NTT faculty member of their rights under the CBA.

A final point to consider is whether the *prospect* of unionization might prompt university administrators to improve their policies for NTT faculty. Although the NLRA prohibits an employer from offering benefits to employees during a union election with the objective of influencing the outcome of the election (*NLRB v. Exchange Parts Co.*, 1964), unconditional benefits could be provided in a way that would be legally permissible. Thus the mere possibility of unionization may well induce university administrators to improve NTT faculty conditions, in part by extending certain faculty policies to NTT faculty.

### **Implications for Practice**

Several practical implications flow from the paper's findings. They are discussed below and include recommendations for university administrators.

**Enhancing legitimacy.** In identity theory, legitimacy refers to a social actor's adherence to minimum criteria, or standards for membership in a given social identity (King & Whetten, 2008). In order to enhance NTT faculty legitimacy and foster NTT faculty inclusion, institutions should adopt and implement transparent and consistent policies. But as the interviews demonstrate, NTT faculty may be appointed in ways that undermine their legitimacy in the eyes of the tenure-line faculty, such as appointments without following an open and competitive hiring process or utilizing faculty titles in confusing or misleading ways.

Adherence to transparent and standardized appointment procedures (appointment of a search committee, public posting of the position, active solicitation of applications, interviews of candidates, etc.) is a means of promoting legitimacy, and as such would be conducive to fostering a culture of respect and inclusion for NTT faculty. Additionally, institutions should establish clear and transparent guidelines on the use of professional titles for the appointment of NTT faculty, outlining required candidate qualifications for appointment to positions with such

professional titles as well as the rights, opportunities for promotion, and job responsibilities associated with such titles.

Finally, unionization has the potential to promote NTT faculty inclusion more generally by raising awareness about NTT faculty and establishing standards. Before the NTT faculty unionized at Alpha, they were relatively unnoticed within the institution. Unionization fostered legitimacy for NTT faculty by establishing a framework and a culture for dealing with them.

**Enhancing perceptions of job security.** Not surprisingly, the findings emphasize the central significance of job security to NTT faculty. Although universities may not have the resources to promote significant numbers of NTT faculty to positions with job security analogous to tenure, there are other policies institutions may implement to enhance perceptions of job security for NTT faculty while still retaining some flexibility:

- *Multi-year contracts.* Institutions could implement a system making NTT faculty eligible for promotion to multi-year contracts. The interview data demonstrate how making such a promotion opportunity available to NTT faculty could enhance perceptions of job security, even if only a minority of such faculty successfully apply for promotion.
- *Performance evaluations.* Universities should consider adopting an institutional requirement of annual performance evaluations of their NTT faculty. The evaluation process and criteria should be comparable to commonly-accepted standards in the academic unit for reviewing work of tenure-line faculty; units should be encouraged to utilize multiple sources of data supporting such review. Conducting regular performance evaluations pursuant to transparent criteria promotes NTT faculty perceptions of job security by minimizing the potential for wrongful termination.
- *Grievance procedure.* Institutions should provide a procedure for reviewing decisions not to renew NTT faculty contracts. Delta's faculty handbook strikes a balance between establishing procedural safeguards for NTT faculty and affording academic units hiring flexibility by limiting the availability of grievance procedures over contract non-renewal to the following situations: where there have been procedural violations that materially inhibit the review process, where the decision was based on illegal bias or prejudice, or where the decision was based on considerations that violate academic freedom.

Although the procedures outlined above do not provide the degree of job security that tenure (or a tenure-like process) does, together they would constrain the ability of administrators to terminate NTT faculty contracts for arbitrary or wrongful reasons.

**Adopting institutional policies.** Finally, the paper’s findings highlight the importance of adopting NTT faculty policies at the university level. The alternative to institutional policies is to leave NTT faculty policy formulation and implementation to the discretion of academic units, which may lead to inconsistent treatment due to varying resource constraints and levels of commitment among the units. The document analysis revealed examples that illustrate how centralized policies can establish a minimum standard for treatment of NTT faculty applicable across the institution, such as Beta’s faculty handbook provision affording NTT faculty the right to participate in governance with respect to decisions “directly related” to their role within the academic unit.

While institutional policies are crucial to establishing a minimum standard of support for NTT faculty across the institution, they should also allow for operational flexibility among the academic units. The issue of how best to implement NTT faculty-supportive policies in a decentralized university setting is worth further study.

### **Study Limitations**

The small data set—six institutions, three CBAs, and interviews at two institutions—limits the external validity of the study. In addition to being small, the institutional sample was not randomly selected. Other than selecting a mix of unionized and non-unionized institutions, institutions were selected based on whether university-level policies were publicly-available, specific regarding their applicability to NTT faculty, and transparent. Thus the sample likely skews towards institutions with better than average policies on NTT faculty. The selection of Alpha and Beta as interview sites similarly was not a random selection. Although there are obvious practical impediments to conducting interviews at a campus where a unionization drive is underway, it would be worthwhile to study up close the dynamics of such a drive, and to consider the impact of prospective unionization on the development of NTT faculty policies.

Another limitation of the study is the fact that Alpha and Beta—the two institutions at which interviews were conducted—differ from each other not only because one is unionized and the other is not, but also because one is a public institution and the other is private. Some of the contrasts observed between NTT faculty policies and practices at Alpha versus Beta may be attributable to differences other than the unionization (or non-unionization) of NTT faculty at each campus.

Notably, the paper does not address policies applicable to *part-time* NTT faculty, except to the extent some of the analyzed policies also apply to part-time faculty. The study was limited to full-time NTT faculty in part to manage its scope, but also because institutional policies relating to full-time faculty tend to be more comprehensive and detailed. Yet some of the most pressing

issues relating to the treatment of NTT faculty in higher education involve part-time NTT faculty. Finally, the study may have been affected by researcher bias, including the fact that the researcher is a tenured faculty member and an attorney.

### Conclusions

NTT faculty comprise the vast majority of faculty appointments in the U.S. The share of *full-time* NTT faculty at *research universities* is smaller, but still significant; the median percentage of NTT instructional faculty reported by U.S.-based, AAU institutions to IPEDS in 2014 was 32%. Recent unionization votes at USC, the University of Chicago, Duke University, and Boston University highlight how elite institutions are not immune to the NTT faculty unionization trend. A growing reliance on NTT faculty at higher education institutions makes their professionalization and support an increasingly relevant topic for administrators.

This paper seeks to determine how policies at several research universities support and professionalize their NTT faculty, and to assess the role of unionization in influencing the development of these policies at these institutions. It does this principally through analysis of institutional policies in place at six AAU universities, including three institutions whose NTT faculty are unionized, and three institutions whose NTT faculty are not unionized. The document analysis also includes a review of CBAs at the unionized institutions. Interviews of faculty and administrators at two of the institutions in the sample (one unionized, one not unionized) supplement the document analysis.

The document analysis confirms findings in the literature demonstrating that higher education institutions have in place a variety of policies that support and professionalize NTT faculty. But since the institutions were selected based partly on the specificity and transparency of their institutional NTT faculty policies, the policy documents in the sample likely are better than average for research universities. The findings also show that NTT faculty unions promote development of strong policies and provide procedural safeguards for faculty who are particularly vulnerable to arbitrary or wrongful administrative acts. To a significant degree, each of the CBAs included in the sample addressed not only wages and benefits, but also other policies recommended in the literature. In some policy areas, the CBAs addressed an issue that was not addressed in the institutional policies of the non-unionized institutions.

At the same time, there are aspects of unionization that could impede integration of NTT faculty by positioning them in an oppositional posture with administrators or isolating them from the tenure-line faculty. Where NTT faculty are already relatively well supported and where the percentage of NTT faculty is relatively low, unions are less likely to form. Instead, participation

in shared governance and the availability of grievance procedures might play a role somewhat analogous to that of a faculty union.

An issue worth additional study is how best to implement NTT-faculty supportive policies and practices in the context of a large research university. The study's findings demonstrate the impact of unions as a catalyst for developing NTT faculty-supportive institutional policies. The findings are less conclusive as to whether these policies are effectively implemented, particularly with respect to matters that traditionally have been left to the discretion of schools and departments.

Although Baldwin and Chronister's (2001) seminal study of NTT faculty policies is now over 15 years old, achieving best practices in the support and professionalization of NTT faculty is still a work in progress. This paper does not resolve ongoing controversy over the merits of NTT faculty unions and their influence on NTT faculty professionalization, but instead identifies potential salutary effects of, as well as limitations to, unionization. At the very least, the findings suggest unionization can function as a catalyst for positive change in university environments where NTT faculty are neglected or mistreated.

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## Appendix

## Data on NTT faculty at U.S.-based AAU institutions

(A) Institution	(B) Number of full-time (FT) instructional staff	(C) Number of FT instructional faculty	(D) Number of FT instructional faculty not on tenure track/no tenure system	(E) Number of FT instructional staff without faculty status	(F) Number of FT instructional staff not on tenure track (NTT) (columns D plus E)	(G) FT NTT instructional staff as a percentage of all FT instructional staff (column F as a percentage of column B)	(H) FT NTT faculty as a percentage of all FT instructional faculty (column D as a percentage of column C)	(I) FT NTT faculty unionized (as of 2012)
Boston University	2464	2428	1540	36	1576	64%	<b>63%</b>	No <sup>a</sup>
Brandeis University	353	353	100		100	28%	<b>28%</b>	No
Brown University	784	780	150	4	154	20%	<b>19%</b>	No
California Institute of Technology	329	324	35	5	40	12%	<b>11%</b>	No
Carnegie Mellon University	1118	1022	348	96	444	40%	<b>34%</b>	No
Case Western Reserve University	1357	1357	564		564	42%	<b>42%</b>	No
Columbia University in the City of New York	3814	3814	2173		2173	57%	<b>57%</b>	No
Cornell University	1790	1790	362		362	20%	<b>20%</b>	No
Duke University	3618	3618	1896		1896	52%	<b>52%</b>	No <sup>a</sup>
Emory University	1963	1963	908		908	46%	<b>46%</b>	No
Georgia Institute of Technology- Main Campus	1080	1035	120	45	165	15%	<b>12%</b>	No
Harvard University	2152	2152	545		545	25%	<b>25%</b>	No
Indiana University-Bloomington	2031	1985	612	46	658	32%	<b>31%</b>	No

(A) Institution	(B) Number of full-time (FT) instructional staff	(C) Number of FT instructional faculty	(D) Number of FT instructional faculty not on tenure track/no tenure system	(E) Number of FT instructional staff without faculty status	(F) Number of FT instructional staff not on tenure track (NTT) (columns D plus E)	(G) FT NTT instructional staff as a percentage of all FT instructional staff (column F as a percentage of column B)	(H) FT NTT faculty as a percentage of all FT instructional faculty (column D as a percentage of column C)	(I) FT NTT faculty unionized (as of 2012)
Iowa State University	1491	1491	276		276	19%	19%	No
Johns Hopkins University	3587	3587	943		943	26%	26%	No
Massachusetts Institute of Technology	1295	996	8	299	307	24%	1%	No
Michigan State University	2747	2605	787	142	929	34%	30%	Yes
New York University	5028	5028	3046		3046	61%	61%	No
Northwestern University	2111	2111	822		822	39%	39%	No <sup>b</sup>
Ohio State University-Main Campus	3587	3587	1112		1112	31%	31%	No
Pennsylvania State University-Main Campus	2707	2707	1111		1111	41%	41%	No
Princeton University	904	904	162		162	18%	18%	No
Purdue University-Main Campus	1896	1730	88	166	254	13%	5%	No
Rice University	641	641	130		130	20%	20%	No
Rutgers University-New Brunswick	3102	3098	1333	4	1337	43%	43%	Yes

Cross: Unionization and Non-Tenure Track Faculty

(A) Institution	(B) Number of full-time (FT) instructional staff	(C) Number of FT instructional faculty	(D) Number of FT instructional faculty not on tenure track/no tenure system	(E) Number of FT instructional staff without faculty status	(F) Number of FT instructional staff not on tenure track (NTT) (columns D plus E)	(G) FT NTT instructional staff as a percentage of all FT instructional staff (column F as a percentage of column B)	(H) FT NTT faculty as a percentage of all FT instructional faculty (column D as a percentage of column C)	(I) FT NTT faculty unionized (as of 2012)
Stanford University	3067	1945	529	1122	1651	54%	27%	No
Stony Brook University	1533	1533	595		595	39%	39%	Yes
Texas A & M University-College Station	2912	2912	968		968	33%	33%	No
The University of Texas at Austin	2745	2745	846		846	31%	31%	No
Tulane University of Louisiana	836	836	236		236	28%	28%	No
University at Buffalo (SUNY)	1565	1565	452		452	29%	29%	Yes
University of Arizona	1822	1822	378		378	21%	21%	No
University of California-Berkeley	1675	1672	290	3	293	17%	17%	Yes
University of California-Davis	2150	2148	752	2	754	35%	35%	Yes
University of California-Irvine	1664	1664	538		538	32%	32%	Yes
University of California-Los Angeles	3150	3137	1512	13	1525	48%	48%	Yes

(A) Institution	(B) Number of full-time (FT) instructional staff	(C) Number of FT instructional faculty	(D) Number of FT instructional faculty not on tenure track/no tenure system	(E) Number of FT instructional staff without faculty status	(F) Number of FT instructional staff not on tenure track (NTT) (columns D plus E)	(G) FT NTT instructional staff as a percentage of all FT instructional staff (column F as a percentage of column B)	(H) FT NTT faculty as a percentage of all FT instructional faculty (column D as a percentage of column C)	(I) FT NTT faculty unionized (as of 2012)
University of California-San Diego	2040	2035	843	5	848	42%	41%	Yes
University of California-Santa Barbara	909	909	124		124	14%	14%	Yes
University of Chicago	2004	2004	925		925	46%	46%	No <sup>a</sup>
University of Colorado Boulder	1420	1420	353		353	25%	25%	No
University of Florida	2472	2472	512		512	21%	21%	Yes
University of Illinois at Urbana-Champaign	2224	2224	483		483	22%	22%	No <sup>a</sup>
University of Iowa	2247	2247	818		818	36%	36%	No
University of Kansas	2140	2140	842		842	39%	39%	No
University of Maryland-College Park	2151	1789	362	362	724	34%	20%	No
University of Michigan-Ann Arbor	6068	6068	3371		3371	56%	56%	Yes
University of Minnesota-Twin Cities	3388	3052	841	336	1177	35%	28%	No

Cross: Unionization and Non-Tenure Track Faculty

(A) Institution	(B) Number of full-time (FT) instructional staff	(C) Number of FT instructional faculty	(D) Number of FT instructional faculty not on tenure track/no tenure system	(E) Number of FT instructional staff without faculty status	(F) Number of FT instructional staff not on tenure track (NTT) (columns D plus E)	(G) FT NTT instructional staff as a percentage of all FT instructional staff (column F as a percentage of column B)	(H) FT NTT faculty as a percentage of all FT instructional faculty (column D as a percentage of column C)	(I) FT NTT faculty unionized (as of 2012)
University of Missouri-Columbia	1880	1880	829		829	44%	<b>44%</b>	No
University of North Carolina at Chapel Hill	2074	1945	619	129	748	36%	<b>32%</b>	No
University of Oregon	1087	1087	373		373	34%	<b>34%</b>	No <sup>a</sup>
University of Pennsylvania	1996	1996	442		442	22%	<b>22%</b>	No
University of Pittsburgh-Pittsburgh Campus	4035	4035	2464		2464	61%	<b>61%</b>	No
University of Rochester	2061	2061	742		742	36%	<b>36%</b>	No
University of Southern California	2184	2184	732		732	34%	<b>34%</b>	No <sup>a</sup>
University of Virginia-Main Campus	2049	2049	683		683	33%	<b>33%</b>	No
University of Washington-Seattle Campus	3598	3598	2237		2237	62%	<b>62%</b>	Yes

(A) Institution	(B) Number of full-time (FT) instructional staff	(C) Number of FT instructional faculty	(D) Number of FT instructional faculty not on tenure track/no tenure system	(E) Number of FT instructional staff without faculty status	(F) Number of FT instructional staff not on tenure track (NTT) (columns D plus E)	(G) FT NTT instructional staff as a percentage of all FT instructional staff (column F as a percentage of column B)	(H) FT NTT faculty as a percentage of all FT instructional faculty (column D as a percentage of column C)	(I) FT NTT faculty unionized (as of 2012)
University of Wisconsin-Madison	3334	3324	1320	10	1330	40%	40%	No
Vanderbilt University	3408	3408	2147		2147	63%	63%	No <sup>b</sup>
Washington University in St Louis	1547	1547	261		261	17%	17%	No
Yale University	2695	2695	620		620	23%	23%	No

Sources: Berry & Savarese, 2012; U.S. Department of Education. Institute of Education Sciences, National Center for Education Statistics, n.d.

<sup>a</sup>FT NTT faculty voted to unionize since 2012. <sup>b</sup>NTT faculty union election is pending