

POLICY BRIEF

A State Legislative Agenda for Higher Ed Contingent Staff

With Examples of AFT State Legislative Victories

AFT affiliates across the country have been using their collective power to encourage state legislators to pass laws that would improve their working conditions and quality of life. While some of the legislative accomplishments are focused on adjunct faculty, other wins tackle improvements in higher education and student debt, which affect the collective prosperity of the entire academic community and broader economy.

A Right to Organize a Union and Collectively Bargain. In <u>New Mexico</u>¹ the AFT worked in 2020 to modernize and strengthen the state's collective bargaining law,² making it easier for faculty and adjuncts in the public sector to form and join a union. The law also implements standards and protections for collective bargaining that strengthen the ability of workers to win improvements in wages, benefits, campus safety and other working conditions. New Jersey³ and California⁴ have passed legislation that requires public employers to stay neutral in an organizing campaign and forbids a public employer from encouraging workers to withdraw from the union if a workforce already has an exclusive bargaining representative. California's law specifically bars public employers from "deterring or discouraging public employees from becoming or remaining members" in unions. Maine⁵ recently passed a card check law that requires all public employers to recognize a union if a majority of the bargaining unit sign union cards. This bill builds upon a 2019 law that allowed card check for municipal workers but excluded state workers; judicial employees; and university, academy and community college employees. Most recently, AFT Michigan successfully advocated to restore the right of graduate student research assistants and independent contractors to collectively bargain (SB 185).⁶ This comes a decade after the Republicans, then in control of state government in Michigan, took away this right. The right-wing-funded Koch network was behind this attack, which was directly intended to forestall an AFT Michigan organizing campaign.

A Fully Funded Higher Education System. AFT affiliates in <u>Washington</u>⁷ and <u>California</u>⁸ have won significant gains in funding for higher education through their legislative advocacy. <u>New</u> <u>York's budget for 2022-2023</u> provides a down payment on needed reinvestments in public higher education.⁹ The New York Senate's initial budget echoed our affiliates' campaign by branding these investments as a "New Deal" for the State University of New York and the City University of New York systems. There is approximately \$500 million in new funding. This includes \$153 million for SUNY and CUNY to hire additional full-time faculty. Programs to support nontraditional and disadvantaged students received a 10 percent increase in funding, and there was an expansion of need-based financial aid. The budget closes an unfunded mandate to colleges from previous changes to the state's Tuition Assistance Program. There are also hold-harmless funds to ensure that community colleges with decreasing enrollment don't lose more than 2 percent of state aid, and there is an increase in base per-pupil support. A Right to Fair Compensation. Although collective bargaining is the primary vehicle for improving wages and benefits of contingent faculty, there are state policies that can support this goal as well, particularly by enshrining minimum standards in state law. Examples include:

- A Fair Wage: During the 2021 legislative session, AFT New Mexico advocated for the <u>College</u> <u>Faculty Minimum Wage Act</u>,¹⁰ which would have provided a minimum wage of \$5,000 per course assignment credit hour. AFT New Mexico is working alongside legislators, higher education local leaders and the N.M. Department of Higher Education to pass a comprehensive study bill that looks at compensation data for instructional staff at public institutions—hopefully laying the foundation for similar minimum salary floor passage.
- Affordable Healthcare: After more than a decade of advocacy, AFT-Oregon won important legislation ensuring that public sector adjunct faculty members have access to quality and affordable health insurance.¹¹ The Legislature created a Part-Time Faculty Insurance Fund and allocated \$13 million for adjunct faculty who work at least half time. Eligible adjuncts will be provided the same health insurance available to their other faculty colleagues at the home institution selected by the adjunct faculty. AFT-Oregon recently also won the inclusion of vision and dental benefits along with lowering the eligibility rate from 0.5 fulltime equivalent to 0.3 FTE, as the original bill had a low take-up rate due to adjunct faculty not working enough hours to qualify (HB 2611).¹² After a multiyear campaign, the California Federation of Teachers successfully persuaded Gov. Gavin Newsom to include \$200 million in ongoing state funding for the part-time community college health insurance program. In order for districts to qualify for 100 percent reimbursement, one of the conditions is that part-time faculty must receive the same type of health insurance plan as full-time faculty.¹³ The Rhode Island Federation of Teachers continues to work on a bill that would give adjuncts access to healthcare if they teach at least 50 percent of the hours worked by fulltime faculty.¹⁴ Unfortunately, the bill has gotten stalled due to an incorrect high fiscal note in which the analyst assumed all adjuncts would utilize the benefit when, in reality, some adjuncts are likely to use their partners' healthcare benefit and not all adjuncts may work the minimum number of hours to qualify. To address a high fiscal note, our Oregon and California affiliates worked alongside legislators—some who were former faculty—and the governor's office to lobby directly with politicians about the precarious nature of being an adjunct (see the California Federation of Teachers' Part-Time Faculty Campaign resources¹⁵). And in New Jersey, part-time faculty can qualify for the state employee healthcare system after 60 days of employment.¹⁶
- Access to Retirement: Contingent staff should have the same access to public employee
 retirement benefits that other public employees do, and higher education employers should
 make the same contributions to retirement systems for adjuncts that they make on behalf
 of other public employees. Current <u>New Mexico law</u> is one example of how states can
 provide contingent faculty with access to retirement; it provides that an employee of public

higher education institutions who works 26 percent or more of a full-time load is eligible to participate in the defined benefit pension plan.¹⁷

 Paid Sick and Family Leave: Across the country, AFT affiliates have advocated for paid sick and family leave for both full- and part-time employees. In California, contingent faculty can access paid family leave under the state's Paid Family Leave law. Part-time faculty can take up to twelve weeks off and will be guaranteed <u>at least one-half of their salary pay</u> while on parental leave, regardless of the type of differential pay system used by their community college districts.¹⁸ Most recently in Wisconsin, <u>AFT-Wisconsin graduate assistants, faculty</u> <u>and staff</u> successfully campaigned for a six-week paid family leave policy at the University of Wisconsin system.¹⁹ They are continuing to push for a 12-week paid family and medical leave for all graduate workers.

Just-Cause Protections. New Mexico <u>law</u> provides that no member of the faculty of any state educational institution shall be removed except for cause, following notice and an opportunity for a hearing under rules adopted by the board of regents of the institution.²⁰ <u>AFT New Mexico</u> has advocated that such protections should be extended to contingent faculty.²¹

Parity for Adjunct Faculty. AFT affiliates have taken a few different approaches to ensuring pay equity between tenure-track and adjunct faculty, but parity in pay and benefits has long been a touchstone. Some affiliates have supported legislation to do this that includes a call to create more full-time positions while giving adjuncts some preference in consideration for those positions. Recognizing that not all adjunct faculty seek full-time employment, the California Federation of Teachers attempted to pass a bill would also have required that part-time and temporary faculty receive pay and benefits that are equal to those of tenured and tenure-track faculty of comparable qualifications doing comparable work, on a pro rata basis.²² The CFT also recently passed a resolution and created a task force to address the two-tier system in community colleges; a vision of a one-tier model and long-term strategic plan is forthcoming.²³ To that point, the CFT²⁴ tried to pass a pay equity bill in the 2023-25 session along with our Oregon and Washington affiliates. <u>AFT-Oregon²⁵</u> pushed for an adjunct pay equity bill that allows part-time faculty to be paid at the same rate, on a per-hour basis, as full-time faculty. AFT Washington²⁶ lobbied for adjunct pay parity in 2023, which didn't pass, but it was able to work alongside legislators to include a definition of part-time/adjunct pay parity of 85 percent and a directive to develop a plan to achieve pay parity within four years. Additionally, AFT Colorado and the American Association of University Professors worked on legislation to give Colorado adjunct faculty pro rata pay, due process rights and the same voice in governance that other faculty have. This model, had it passed, would have lifted the status of adjunct faculty without the requirement that they necessarily take on full-time workloads.²⁷

Access to Unemployment Benefits for Breaks Between Semesters. A long-standing concern for adjunct faculty is a set of employer practices where adjunct faculty are deemed to have reasonable assurance of re-employment after a semester, but in reality no such assurance

exists. This practice gives the employer maximum flexibility at the expense of the employee's ability to qualify for unemployment. In Washington state, the AFT advocated for a <u>law</u> that sets forth a number of prerequisite requirements that must be met before the Employment Security Department—the state agency that administers unemployment benefits—can make a determination that an employee has a contract for continued employment and therefore has reasonable assurance of continued employment.²⁸ The Washington law ensures that the Employment Security Department cannot inappropriately deny a claim for unemployment benefits for adjunct faculty during summer and winter breaks. New Jersey's recently enacted <u>law</u> includes the same prerequisite requirements as Washington's law with some additional provisions.²⁹

Professional Respect. The <u>College Faculty Minimum Wage Act</u>, advocated for by AFT New Mexico during the 2021 session, would have extended professional respect to contingent faculty by providing:³⁰

- Autonomy in Selecting Curriculum and Textbooks. The AFT New Mexico bill would have extended to contingent faculty the same rights as tenure-track faculty have to select books and course materials.
- Access to Professional Development Opportunities. The bill would have given contingent faculty the right to access professional development opportunities.
- Access to Campus Resources. The bill would have provided contingent faculty with a right to use college resources, including telephones, copy machines, supplies, office space, mailboxes, clerical staff and libraries. Guaranteed office space is particularly essential to ensuring that students have access to their instructors outside of classroom hours.
- Better Notice of Class Assignments. The bill also would have provided contingent faculty with 10 weeks' notice for course assignments to give faculty adequate time to adequately prepare a syllabus, plan coursework and be properly onboarded at their institution. The law would have also guaranteed payment when classes are canceled without sufficient notice.

Support from Higher Education Employers in Accessing Public Student Loan Forgiveness.

Thanks to the work of our California, Oregon, Washington, New York and Colorado affiliates,³¹ the federal <u>Department of Education</u> has implemented a national 3.35 multiplier to make it easier for faculty to qualify for Public Service Loan Forgiveness.³² A 3.35 multiplier can now be applied to every credit or contact hour to determine whether a faculty member meets the federal 30-hour full-time definition to qualify for PLSF.

States can improve upon the federal standard to assist adjuncts in qualifying for PSLF. For example, affiliates in Oregon and Colorado have advocated for a higher multiplier at 4.35. As a result of advocacy by affiliates in California and Washington, the law allows for state employers to directly certify with the Department of Education (when this option is available at the state level) or provide annual forms for employees to sign that certify employment in the public

sector. Washington, Colorado and Oregon explicitly allow for retroactivity; we believe employers can apply standards retroactively in any case, but making it clear in legislation will help redress past miscounted payments and help adjunct faculty reach the 120 monthly payment mark for loan forgiveness sooner. See the "State Legislation on Expanding Public Service Loan Forgiveness Eligibility for Adjunct Faculty" via the AFT's Political and Legislative Action Hub for detailed comparisons of each state's bill and its features.³³

A Right to a Strong Union. In the wake of the *Janus v. AFSCME* Supreme Court decision, many states passed additional statutory protections to stabilize labor relations in the public sector. These policies provide additional tools to support organizing and strengthen bargaining units.

- Recently enacted legislation in <u>Maryland</u>,³⁴ <u>New Jersey</u>,³⁵ <u>New York</u>,³⁶ and <u>California</u>,³⁷ among other states, mandates that exclusive bargaining representatives be guaranteed time to meet with new hires during new public employee orientations. The more expansive parts of these laws also guarantee union access to public facilities and access to unit member contact information and the use of workplace systems of communication for union business.
- AFT unions have also advocated for legislation protecting member information from rightwing public records fishing. New laws in <u>California</u>,³⁸ <u>New Jersey</u>,³⁹ <u>Washington</u>,⁴⁰ <u>Oregon</u>⁴¹ and <u>Connecticut</u>⁴² provide notice to unions and safeguard against the release of members' personal contact information through overly broad public records requests. These excessively far-reaching public record requests have been used by anti-union entities to target union members in order to try to persuade them to drop their union membership.
- Another example is Minnesota's Legislature, which passed a bill that makes it easier for public sector unions to communicate with the people they represent and allows adjuncts at state colleges who teach one class to be in bargaining units (<u>SF 3035</u>).⁴³

A Safe Workplace. The federal Occupational Safety and Health Act establishes and protects workers' rights to a safe and healthful workplace. However, the act does not apply to adjuncts and other employees of public higher education institutions unless the state has enacted legislation to extend these protections to public employees. AFT unions and other advocates were able to extend federal OSHA health and safety standards to public employees in <u>Massachusetts</u> with legislation enacted in 2018.⁴⁴ During the COVID-19 crisis, the AFT advocated for a permanent safety standard in <u>Virginia</u> and other states to ensure that workers have access to personal protective equipment, a well-ventilated workplace and written COVID-19 policies.⁴⁵

A Voice on the Governing Board. To ensure that adjunct faculty are treated as an integral part of their institutions and are provided a voice in university decision-making, AFT unions have advocated for full-time tenured/tenure-track and adjunct faculty designated seats on university governing boards. After several years of advocacy, <u>AFT-Oregon</u> successfully worked with legislators to pass SB 273, a bill to expand university board governance seats to include faculty, staff, undergraduates and graduate students.⁴⁶ To respond to opposition arguments that faculty, staff and students would have a conflict of interest, the bill includes the following language:

The [insert faculty, staff and student] members of the governing board may not participate in any discussions or action by the board or attend any executive session of the board involving collective bargaining issues that affect [insert faculty, staff and student] at the university.

In <u>Maine</u>, a bill was introduced during the 2022 session that would create three nonvoting board seats, one of which would be filled by an adjunct faculty member.⁴⁷ <u>AFT Vermont worked on legislation</u> in 2022 to expand the boards of the Vermont State Colleges and the University of Vermont from 15 to 23.⁴⁸ The bill would decrease the number of governor-appointed seats and increase the number of seats for students, union-member faculty and union-member staff at Vermont higher education institutions. The faculty would be members of and elected by the unions representing faculty, creating an opportunity for adjuncts to serve.

Accessible Debt-Free Public Higher Education. Adjuncts want to work in an institution that sets students up for long-term success. Low- and middle-income students are increasingly unable to afford the full cost of public college due to decreasing state support and the resulting increases in tuition and fees. The lack of access to postsecondary education that this causes limits democratic participation as well as economic progress, and results in a tragic loss of diverse human potential. The free tuition policy offered by the City University of New York system until the 1970s is the model the AFT aspires to. AFT affiliates have supported programs in California,⁴⁹ Washington,⁵⁰ New York⁵¹ and other states that create free college for at least some students in some public institutions.

In 2022, <u>AFT New Mexico</u> helped win funding for free college for high school graduates and adults who want to return to school.⁵² This \$75 million one-time funding is unique in that it applies to nontraditional students and builds upon the Opportunity Scholarship enacted in 2020, which gives high school graduates free tuition to the state's public two- and four-year institutions. In 2023, <u>Education Minnesota</u> pushed for HF 2073, a free tuition program called the North Star Promise for Minnesota residents to attend a Minnesota state university or college, two-year college or community college if their families report annual income of \$80,000 or less.⁵³ The program is a last-dollar scholarship, meaning it covers tuition for undergraduates after all other grants or scholarships have been applied; in other words, state funding will only cover tuition that isn't already covered by grants, scholarships or any other type of financial aid. Undocumented immigrants will be eligible for the state's new tuition-free

college program as well. The <u>Rhode Island Federation of Teachers and Health Professionals</u> also succeeded in a pilot program push for free college to cover the junior and senior years of a student's tuition and mandatory fees (HB 5099).⁵⁴ This legislation builds upon a previously enacted program at Rhode Island community colleges that covers the first two years. Most recently, AFT Colorado supported the push for free college for two years (<u>HB24-1340</u>), which allows students from families making under \$90,000 to qualify for a refundable state incometax credit for two years of in-state tuition at public four-year universities, community colleges and technical schools.⁵⁵

For students and their families that have chosen college, it has meant taking out tens of thousands of dollars of debt for a college education or forgoing the personal, familial and social benefits of attending college. Americans are currently burdened by \$1.75 trillion in total student loan debt, and this debt constrains students' opportunities to freely pursue their areas of academic interest, deprives fields of study and the communities that benefit from the talents of this rising generation, and harms working people and the middle class. To help with this, legislators in New York passed a state student loan forgiveness program called <u>Get on Your</u> Feet, which has the state pay for up to 24 months of federal student loan debt for those who participate in an income-driven repayment plan.⁵⁶ Applicants must have graduated from both a New York high school and a college or university in New York. This program creates an incentive for New York residents to work and live in the state after graduation, and it gives new graduates time before they have to pay back their loans. Since one of the requirements to qualify for the federal Public Service Loan Forgiveness program is enrollment in an income-driven repayment plan, individuals who work in the public sector can also have the loan payments from the Get on Your Feet program apply toward the payments for PSLF.

Working with the <u>Student Borrower Protection Center</u>,⁵⁷ AFT affiliates at the state level have helped strengthen regulatory oversight of student loan servicers. As of 2014, legislators in a dozen states have passed a Student Loan Borrower Bill of Rights. For example, <u>AFT-Maryland</u> <u>advocated for legislation</u> that prohibits a student loan servicer from employing any scheme to mislead a student borrower and engaging in any unfair, abusive or deceptive trade practice.⁵⁸ <u>AFT Colorado advocated for legislation that</u> prohibits servicers from defrauding or misleading borrowers, misapplying payments, providing inaccurate information to credit reporting agencies, and failing to assess a borrower for an income-based repayment plan if available.⁵⁹

Helping Students Succeed. Many students, particularly nontraditional students and those from lower-income families, have trouble persisting in college. To that end, our affiliates in New York have continued to advocate for a set of student supports, including need-based aid for part-time students and the <u>Educational Opportunity Program</u>, which provides students with funding and other academic and student support services that help these students succeed in college.⁶⁰

Over 6 million or about one-third of college students report experiencing food insecurity.⁶¹ In 2023, AFT-Oregon supported the <u>expansion of SNAP benefits for graduate students</u> (SB 609).⁶² Additionally, AFT Washington advocated for HB 1559, which creates benefit hubs on college campuses so <u>students can access a one-stop shop</u> to get help with food assistance, applying for social programs, on-campus child care and more.⁶³

In 2023, AFT-Oregon worked on HB 3256, a bill that creates a <u>sexual misconduct survey</u> <u>council.</u>⁶⁴ This council is tasked with implementing a sexual misconduct climate survey on college campuses. The bill also requires higher education institutions to hire a victim services advocate and to work alongside community-based domestic and sexual violence advocacy agencies to provide resources, trainings and services to survivors. In the 2024 session, the California Federation of Teachers is supporting a 12-bill package that <u>addresses sexual</u> <u>discrimination and harassment</u> in the state's higher education institutions.⁶⁵

Conclusion. Our students experience a myriad of challenges that may delay or end their postsecondary education altogether. These policies can ensure that students are able to complete their studies.

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