

Campus Organizers' Guide to Democratizing Education

Prepared 2006-07 by Eric Prindle, Liberty Tree Associate, for the
Democratizing Education Network ~ <http://www.DemocratizingEducation.org>



**Democratizing Education Program
LIBERTY TREE Foundation for the Democratic Revolution**

Table of Contents

1. Introduction	3
2. Campus Networks for Democracy	5
2.1. Constituencies	
2.2. Types and Benefits of Network-Building	
2.3. Challenges to Network-Building	
3. Student Government	8
3.1. Sources of Authority	
3.1.1. Law	8
3.1.2. Bylaws, Constitutions, Rules, etc.	
3.2. Benefits of Student Government	
3.3. Challenges in Working with Student Government	
3.3.1. Governance and Advocacy	
3.3.2. “Democratizing” Student Government	
4. Labor Unionism on Campus	13
4.1. Legal Background	
4.2. How Unions Are Organized	
4.3. The Role of Labor Unions on Campus	
4.4. Building Campus Labor	
5. Student Unionism	17
5.1. Context for Student Unionism	
5.2. Legal Considerations	
5.3. Approaches to Student Unionism	
5.3.1. Student Government	
5.3.2. New Organizations	
5.3.3. Hybrid Labor/Student Unionism	
5.3.4. Multiple and Hybrid Approaches	

1. Introduction

This guide was prepared for distribution by and within the Democratizing Education Network (DEN). The DEN is a network of student, faculty, staff, and community organizers from around the country united around the Democratizing Higher Education Charter, a ten-point set of demands for the revitalization of democratically focused higher education in the United States. The charter calls for:

- ❑ Full Public Funding for Public Higher Education
- ❑ Free Access to Higher Education and Abolition of Tuition
- ❑ Affirmative Action to End Institutionalized Racism and Sexism
- ❑ Full Recognition of the Right of Students and Workers to Organize
- ❑ Democratic Self-Government of Higher Education
- ❑ Service to the Public Welfare, Not Corporate Profits
- ❑ Free Speech and Academic Freedom
- ❑ Debt Forgiveness of Student Loans
- ❑ Civic Education for a Democratic Society
- ❑ Education, Not War; Schools, Not Jails

Since its founding convention in 2005, the DEN has supported the spread and growth of the Tent State University movement, student unionism, and increased networking among students, faculty, staff, and community members around national and international education issues. In the fall of 2006 it organized a virtual march and phone-in targeting corporate lobbyists and elected officials with a call for more public funding for higher education. The *Campus Organizers' Guide to Democratizing Education*, prepared by the Liberty Tree Foundation for the Democratic Revolution, is another contribution to the DEN's mission.

This guide addresses a very specific topic: the issues to take into account when organizing within a college or university environment in support of the issues in the Democratizing Higher Education Charter.

As students, faculty, and staff at campuses around the country organize around issues like tuition reform, affirmative action, and labor rights, very often they find themselves coming up against a deficit of democracy on their campuses. Although universities and colleges are supposed to be structured to serve the needs of students and the interests of the general public, they are usually controlled by a small group of administrators who increasingly tend to have a corporate mindset that excludes democratic participation by their “employees” and “customers.” Among the groups affected by this mindset, students have some specific challenges to face in trying to increase their power over the direction their university is going. The purpose of this guide is to acquaint you with some of those challenges and to offer possible approaches to addressing them.

Other guides, handbooks, manuals, etc. are out there to teach you about “organizing” or more specifically “grassroots organizing” as general subjects. This guide is less of a how-to manual than most of those. It is less about skill sharing and more about experience sharing. As new generations of students, staff, and faculty deal with the question of democracy on their campuses, many of the same issues come up over and over again. The purpose of this guide is to look at what these issues are and what we can learn from what's worked and what hasn't in the past.

As a practical matter, most of the material in this guide is oriented toward strategies that can be pursued by students. This is in part because students are the largest constituency on any campus and in part because some of the most interesting strategy questions facing campus democracy movements today

revolve around how students can best organize themselves to achieve their goals. We do hope, however, that this guide will be useful to all constituencies organizing for campus democracy.

In recent years, many campus activist movements have arrived at the conclusion that students need independent, democratic, grassroots organizations to advocate on their behalf – the type of organizations known in much of the rest of the world as “student unions.” Because groups at many campuses are interested in this approach, and because Liberty Tree is invested in the growth of higher education unions, much of the structure of this particular guide points toward the creation of a student union as an eventual goal. However, if in organizing at your campus you decide that a student union is not something you want to pursue, you will likely still find plenty of valuable information here.

We hope this guide is helpful and encourage you to give us feedback so it can be made even more helpful in future editions.

2. Campus Networks for Democracy

Democratizing education is not a project for students alone. A democratic university involves democratic participation of students, faculty, staff, and community members. Though each of these constituencies has particular demands and particular ways of organizing, building networks of groups working for democracy within each is a crucial task for pro-democracy organizers on campus.

2.1. Constituencies

Campus organizing often takes place with the leadership of what are commonly known as “student groups,” but what is meant by “student” in this context is worth examining. On many campuses, “student groups” are primarily populated by undergraduates, either by virtue of how they are set up, tradition, or outreach priorities. Yet separate student groups sometimes also exist in graduate and professional programs.

For graduate students in particular, a growing number of campuses are home to labor unions representing graduate teaching, project, and research assistants. While these unions have been established for decades at some state schools, they more recently have been fighting for recognition at certain private schools. Graduate assistant unions can be an extremely valuable part of a campus network. In most cases, the current union leadership will be interested in building cross-constituency campus networks; in other cases, it may take some work on the part of activist graduate assistants to shape their union into a progressive force above and beyond contract bargaining.

Among more traditional student groups, a number of different types are prominent. Some groups have an explicit “progressive,” “radical,” and/or “social justice” agenda, and it is often these groups that are seen as natural participants in campus organizing for democracy. However, at many campuses, these organizations are dominated by white students, while students of color are often recruited early on into groups with a more identity-based focus. In these groups, political action is often one of multiple activities, including social programming, career networking, and recruitment of new students to increase diversity on campus. And when identity-based groups take political action, they are sometimes reluctant to adopt a broad agenda (such as the Democratizing Higher Education Charter) out of a desire to be inclusive of everyone who shares the group’s identity.

The gap between purely political and identity-based student organizing is often encountered as an obstacle by those trying to build racially inclusive cross-constituency networks. On some campuses, the gap is bridged when progressive and radical students of color build new organizations that are rooted in both racial identity and a broad political agenda. On other campuses, the traditional organizations of students of color are politically activated by particular issues that affect them directly, and support from primarily white organizations builds trust that lays the groundwork for longer-term collaboration.

At some campuses, permanent and/or contingent (adjunct) faculty are organized into labor unions. As with graduate assistant unions, these unions may or may not be open to participating in a campus network, and it may be necessary to reach out to individual faculty members who can influence their union’s direction. Faculty may also be organized into non-collective bargaining chapters of the American Association of University Professors (AAUP) and/or other organizations that represent their interests. Finally, just about every campus is home to informal networks of progressive faculty who might be interested in building more formal structures.

Blue collar and clerical staff are the campus constituency most likely to be at least partially unionized, often in multiple unions representing particular classifications of jobs. As with the broader labor

movement, these unions range from narrowly-focused collective bargaining agents to active progressive change forces, and most are subject to democratic change from within.

Community groups are an often overlooked source of support for a campus pro-democracy agenda. Traditional “town/gown” tensions may make it seem unlikely that campus and community groups can work together, but if they put aside their presumptions about each other, they often find that they have much in common and particularly share similar concerns about anti-democratic actions on the part of administrations and governments. There may be community organizations specifically confronting issues on your campus, or there may be more general activist, political, or educational groups – including, potentially, chapters of larger organizations – that are interested in the fate of higher education. In particular, look for high school student groups, youth groups, K-12 teachers’ unions, and parent-based organizations; all of these have an interest in ensuring that pre-college youth gain access to an affordable, quality, and responsive college education.

2.2. Types and Benefits of Network-Building

At the most basic level, a network brings together multiple independent organizations on a fairly regular basis to share information, gain insights based on each other’s experiences, and brainstorm strategies. This sort of network provides value to campus participants without requiring that any affiliated organization give up its independence or commit resources to a joint project. With students rotating through the university relatively quickly, the experiences and perspectives of faculty, staff, and community members contribute to a broader understanding of campus issues. And for university employees, who may normally maintain a professional distance from undergraduates, informal networks provide an opportunity to connect with the campus constituency that holds the greatest potential for accomplishing rapid change.

Informal networks can also lead to the creation of cross-constituency groups to carry out particular goals: for instance, an event planning committee or community education project. These groups can be separate from the constituency-based groups in the network and provide an opportunity for people to work together across boundaries in a way that will enable events and projects to have a broad-ranging appeal and depth of perspective.

It may also be beneficial to create a formal coalition or federation of pro-democracy groups on campus. Such a coalition will usually develop its own leadership and carry out its own projects on behalf of the member groups. In this way, an ongoing, concerted pro-democracy campaign can take a unified form with a single strategy agreed upon by all coalition members. Historically, these types of federations have produced the most significant periods of higher education democratization. However, although there can be significant benefits to this kind of organization, by no means should a failure to organize one in the immediate term be allowed to limit less formal yet still productive campus democracy network arrangements.

2.3. Challenges to Network-Building

In addition to the usual challenges to network-building in any context, there are some unique difficulties facing organizers on campus. These issues, if present on your campus, need to be recognized and dealt with if a network for democracy is to be successful.

Age differences and student-teacher relationships can be a barrier to collaboration across traditional boundaries. Most undergraduates are significantly younger than faculty members, and all are dependent on them – as a group – for assignments and grades, which creates an obvious power dynamic. Although undergraduates and graduate students tend to be closer in age, graduate students who serve as teaching

assistants are initiated into professional norms that may make them wary of working too closely with undergraduates, partially due to the same kinds of power dynamics. Similarly, not having entered the graduate world, undergraduates often fail to empathize with graduate students as students.

Where some campus constituencies are already organized into trade unions or other democratically controlled constituency-wide groups, this can create another divide. When union leaders participate in a network, they do so with an entire constituency that has authorized them to take actions in their interests. They generally have professional staff, formally elected leadership, and a fairly stable set of resources available to them. This level of organization and impressive delegated authority may seem overwhelming to more volunteer-based activist groups whose members speak only for themselves.

On the other hand, volunteer-based activist groups often come to the table with considerable organizing experience, while rank-and-file union members may be people who have never worked on activist campaigns but who get involved when they see that they can make a difference on issues that affect them directly as employees. Differences in experience may not map on directly to differences in level of organization, and this has the potential to create tension.

Finally, differences in familiarity with the specific campus environment can be a source of friction within campus networks. Many community members and faculty have a long-term commitment to the campus and vicinity and may have an intimate familiarity with local history. More transient participants, usually undergraduate students, are likely less plugged in to these perspectives, and for those from activist backgrounds, their main point of reference may be national and international trends rather than the specifics of the campus itself.

Of course, what should be obvious by now is that all these potential pitfalls are also potential strengths. People from different age groups who have different relationships with the university can all take advantage of their strengths and their positions in service of a common agenda. Groups with strong organizational resources teaming up with experienced volunteer activists can fill in the gaps in each other's abilities. And combining local perspectives with fresh ideas and broader political commitments can enliven the pro-democracy agenda on your campus. What is important is to see the potential for tensions created by these differences and work diligently to dispel those tensions and successfully put the diversity of your network to work.

3. Student Government

Pro-democracy movements on campus sometimes encounter student government as more of a barrier than a tool. Its integration into a university governance structure that is usually dominated by administrators is one of the reasons why many campus organizers see the need for independent, representative organizations of students. Nevertheless, impacting student government can be an important aspect of a strategy for democratizing the campus. Student governments have a bully pulpit and a budget. Additionally, in the wrong hands of self-serving careerists, they can legitimize anti-democratic actions on the part of the administration. This section discusses issues that you can take into account when deciding how to approach student government.

3.1. Sources of Authority

One of the first things you'll want to know about your student government is what kinds of authority it has and where it gets that authority.

3.1.1. Law. If your school is public, there may be state laws that at least partially shape student government. There are a few important sources of law governing public schools: your state constitution, statutes (laws passed by your state legislature), administrative rules (regulations adopted by whatever agencies in your state oversee the educational system), and court cases. State courts are largely responsible for interpreting state constitutions, statutes, and rules. Federal courts can interpret the U.S. Constitution as well as federal statutes and rules in ways that limit or otherwise impact state law. So all of these are important sources of information about what the law is.

The best way to get an accurate understanding of how the law impacts student government at your school is to consult an attorney. Your school may have a student legal services office, or university attorneys may be able to provide you with this information. There may also be a student advocacy group in your state that can answer your questions.

However, it is also possible for non-lawyers to do at least some preliminary legal research. Your university library probably has a set of law books for your state that can help you get on the right track. You can start by looking in a legal encyclopedia. Also check the state statute books;

Sample Legal Summary Univ. of Wisconsin

Chapter 36 of the Wisconsin Statutes governs the University of Wisconsin system. Section 36.09(5) states in part:

“Students in consultation with the chancellor and subject to the final confirmation of the board shall have the responsibility for the disposition of those student fees which constitute substantial support for campus student activities. The students of each institution or campus shall have the right to organize themselves in a manner they determine and to select their representatives to participate in institutional governance.”

It is up to the state courts to interpret the meaning of this statute. In 1976, the state Supreme Court, in a case called *Student Association of University of Wisconsin-Milwaukee v. Baum*, decided that when there is an undisputed, elected student government, it has the legal authority to appoint any student representatives on university committees, and administrators cannot select their own student representatives. The court said that otherwise, “While students retain their right to organize, the administration can thwart the authority of the organization and deal with other students more to its liking.”

Being a body set up by the state legislature to fulfill specific roles as students see fit clearly gives student government some clout at the University of Wisconsin. However, with these benefits come drawbacks. Despite whatever state law may say, the U.S. Constitution might be read to forbid government bodies, or bodies empowered by the government, from doing certain things. And at Wisconsin, student government is a body empowered by the government.

As you can see above, state law gives student government the right to decide how student fees set aside for student activities are spent. In a case called *Board of Regents of the University of Wisconsin System v. Southworth*, however, the U.S. Supreme Court ruled that in deciding how to spend these fees, student government has to adhere to a standard of “viewpoint neutrality.” Specifically, the court said that “The whole theory of viewpoint neutrality is that minority views are treated with the same respect as are majority views.” The court also ruled that that most advocacy-based programs may not be funded through campus referenda, finding that such referenda inherently promote the majority viewpoint (though the court specifically exempted student government associations from the referendum-funding ban).

these are usually organized by topic and will often, in addition to spelling out the statutes, point you toward important court cases and administrative rules.

Although we'd like to provide you with the law governing student government at public schools in each state, we have not yet compiled that information. Please see the sidebar above for a single example of how law – in this case, the law governing the University of Wisconsin System – can shape student government. This will give you a sense of what to look for when figuring out your own school's legal environment.

3.1.2. Bylaws, Constitutions, Rules, etc. If you are at a private school, it is a near certainty that there are no laws setting out anything specific regarding your student government. And at public schools, law generally only provides the most basic guidance. Most likely, the bulk of your student government's authority comes from rules adopted within the university itself.

At most universities and colleges, the ultimate source of authority is a governing board, whose members may be called trustees, directors, regents, governors, or some similar name. At state schools, these individuals are usually either appointed by elected officials (like the governor, legislature, etc.) or directly elected by campus constituencies or the general public. At private schools, the board often selects its own members; when one member leaves the board, the remaining members choose a replacement, generally from among prominent (and usually wealthy) alumni and community members. When a private school is affiliated with some other organization – a church for example – that organization will often appoint all or some of the board members. Sometimes faculty, staff, alumni, and/or students have some elected representation on the board, usually making up a very small minority altogether.

There are generally some university rules that only the board can amend. These usually come in the form of a charter and/or bylaws. These rules may or may not say anything about student government. Copies of these documents may be available on your school's web site; if not, the board likely has an office you can contact to obtain them.

Day-to-day administration of the school is generally entrusted in an executive official, usually called the chancellor or president. If your school is part of a multi-campus system, there may be one top official for the system and another for your campus. These officials generally have broad-ranging powers and often a great deal of influence over the board. Below them are other administrators such as vice presidents, provosts, and deans.

Subject to the charter or bylaws of the university, all of these officials generally have some authority to adopt rules and policies that have some impact on students. These documents may be more difficult to find and particularly difficult to piece together so as to get a coherent understanding of how authority is distributed within the university.

Don't be alarmed. Somewhere there will be documents specifically spelling out how student government is organized. These documents may be adopted and amended by the student bodies themselves and/or there may be rules made by the administration that students cannot themselves change. If your university is divided into schools that each have their own student governments, there may be different structures for each school, as well as a university-wide structure. Likewise, if you are part of a multi-campus system, there may be an additional layer of student government for the entire system, with its own structure.

Figuring out how student government is structured may, however, turn out to be the easy part. The harder part will likely be figuring out what actual powers student government has, and where it gets those powers. Again, to the extent that these issues are not spelled out in top-level governing documents,

they are likely affected by rules and policies coming from all different sources within the administration. It may be (deliberately?) unclear what powers student government has. Usually one major role of student government is allocating funds to student groups; however, it is possible that the administration reserves the right to overturn these decisions, either in the rules themselves or in their power to change the rules at any time. In short, if you really want to get a firmer handle on your student government's authority, you will have some work ahead of you.

Often campus organizers avoid getting involved with student government precisely because of these difficulties. And where they do choose to get involved, they often get so mired in the bureaucracy that they are not able to carry out their original goals. So part of your strategizing around student government should involve what kind of resources you're going to put in to figuring out exactly how your student government "works."

3.2. Benefits of Student Government

Despite student government's often shifting and uncertain role within the university structure, there are usually some significant benefits it can provide to campus movements.

Most prominently, student government usually determines how some or all of your student activity fees are used. Students on some campuses control budgets that run into the tens of millions. There may be restrictions on these decisions; for instance, the administration may forbid the money from being spent for certain purposes. There may also be legal restrictions to pay attention to, and these will come to bear whether your school is public or private. (Private schools are usually governed by the state and federal laws regulating non-profit corporations.) However, student government still generally has a good deal of legal latitude in this area, and there is a long history of student activity fees being used to finance pro-democracy movements on campus and in the community.

Student government also has a certain legitimacy as the elected representative body of the students. This legitimacy may be low if your student government has a history of inaction and/or there is very low voter turnout in the elections; on the other hand, the more activist the student government, the more investment students will usually have in it. In a worst-case scenario – one you'll most likely want to prevent – an administration hostile to student power can use a compliant student government to argue that everyone except a few troublemakers agrees with its decisions. In a best-case scenario, an activist student government respected by the students can be the catalyst for broader action in support of broader campus interests.

At the very least, since student government can usually elect representatives to university committees, these people can keep an eye on what is being done in these committees and make other constituencies – like faculty – aware of how students feel. And student government may also be the vehicle for a variety of groups that support all or some of the issues in the Democratizing Higher Education Charter to come together across traditional boundaries – for instance, those between predominantly white groups and groups representing students of color – and collaborate on issues of concern.

It is, of course, possible that student government at your school is in such disarray – so disempowered, bureaucratic, and undemocratic – that there is little hope of putting it to any positive use. In situations like this, campus democracy movements sometimes take an interest in getting their members elected to student government solely for the purpose of insuring that it does not become an obstacle to democratization. Additionally, making an honest effort to work within student government can help you make your case to the broader campus population that alternative and/or radically reformed structures are necessary.

3.3. Challenges in Working with Student Government

Sometimes, when student movements start to take an interest in campus democracy – often as a result of their frustration about how little power they have to address other issues within the campus community – one of their first impulses is to take over student government, or at least ensure that sympathetic people are elected to it. However, there are some serious considerations any pro-democracy movement should take into account.

3.3.1. Governance and Advocacy. As the name suggests, student governments at most campuses are primarily set up to “govern” students. They usually administer student organizations, determining when they’ve met the criteria for formal recognition, allocating funds to them, and overseeing their use of those funds and compliance with other regulations. They often promote social events and administer the use of communal spaces. Either the student government itself or another elected or appointed body of students may have some judicial role in dealing with students in certain disciplinary proceedings. And to the extent that student government is represented in campus-wide committees, it is generally so that they can help implement, rather than craft, policy.

If you are interested in increasing the democratic participation of students on campus, however, you may find yourself more interested in advocacy. Representation in this sense is not so much about having a student presence on university-wide committees; it is about having an organization that has the legitimacy to bring together and organize students, raise the volume of the student voice, and negotiate with other campus constituencies in deciding current and future policy.

Theoretically, student government may be capable of fulfilling both governance and advocacy roles. However, there are some practical barriers to this. For one thing, your student government may be structured in such a way as to facilitate the governance function and leave little room for advocacy. There may be “room” in the structure for only a relatively small number of people whose time may be taken up entirely with governance duties imposed by the administration.

Also, having the people who are supposed to represent students to the administration simultaneously responsible for overseeing student organizations and possibly disciplining students can create uneasy dynamics that impact the success of these goals. Funding of student organizations is a particular source of tension here, with special interest groups within the university competing for a limited pot of dollars and potentially distorting attempts to broaden participation in decision-making.

The tension between governance and advocacy is a major reason why many campus organizers around the country are thinking of ways to create new organizations, independent of student government, to represent students. The attractiveness of this strategy does not mean there is nothing to be gained in winning control of, or influencing, student government; however, it does suggest that student government should not be the be-all and end-all of student organizing for campus democracy.

3.3.1. “Democratizing” Student Government. One initial reaction many campus organizers have when they first start looking into student government is that these institutions seem deeply undemocratic in their structure and in practice.

Student governments often function under a set of fairly flimsy rules. Procedures for conducting elections are often surprisingly informal and open to interpretation. The elections themselves may grant disproportionate weight to certain constituencies, allow a majority or well-organized minority to elect all representatives to the exclusion of other viewpoints, or be administered in a way that discourages voter turnout. Once representatives are elected, their meetings may be fairly free-form, with no atmosphere of clarity and accountability. Officers may be able to dictate the agenda with little input from other representatives and/or make up the rules as they go along. On the other hand, some student governments

are so bogged down with process that they pose the challenge of meeting fatigue to working-class and otherwise busy students.

Campus organizers who experience these undemocratic tendencies as a hinderance in their efforts may be tempted to diagnose the internal structures of student government as “the problem” and set about immediately figuring out how to “fix” them, for instance via new election rules or parliamentary procedures. While making student governments more democratic is an important part of the campus democracy agenda, though, it may not directly address the root of the democracy deficit on campus. If your student government is ineffective, it is probably because deeper structures of the university make it so.

The first question you face in dealing with student government is whether you want to work within it or otherwise use it as an aspect of your campus democracy movement, taking into account considerations in this section and others that will be brought up later in this guide. If you decide that student government is worth your attention, you will next want to look not only at its internal structures but at the structure of the university in which it is embedded.

If the student government has no meaningful power, has “power” that can be modified at any time by the whim of administrators, and/or is burdened with so many governance duties that it cannot devote time and resources to representing and mobilizing students, the most perfect internal structure in the world will not accomplish much. And at institutions where the administration has broad power over student government, significant student-initiated changes to the latter’s structure may give administrators an excuse to try to remove some of student government’s existing authority.

Democratizing student government and dealing with the administration’s reaction can, however, be a rallying point for the campus democracy movement and expose to the broader campus population the underlying machinations of power at your college or university. And if you can win changes that increase student government’s effectiveness and meaningful advocacy role, you will have won a major victory for campus democracy.

4. Labor Unionism on Campus

An earlier section referred to labor unions as potential leaders in building campus-wide pro-democracy networks. The key demands of most higher education unions fit squarely with the Democratizing Higher Education Charter, and supporting campus unions is a priority for organizers at many schools. This section is meant to acquaint you with unions and how they operate on campus.

4.1. Legal Background

Most labor unions organize themselves under the auspices of laws that specifically address labor relations and union organizing. It is important to remember, however, that labor unions were around before these laws were passed and are not dependent on them for their existence.

Public state and municipal employees – including those of state colleges and universities – are covered by the labor laws of their states. Private universities, on the other hand, are covered on the federal level by the National Labor Relations Act (NLRA).

The NLRA protects employees from being fired or disciplined for engaging in union activities and, within certain boundaries, allows them to go on strike without losing their jobs. It also specifies the conditions under which a union can claim to represent and bargain on behalf of all of a particular group of employees (primarily through winning an election among those employees), and requires employers and unions to bargain fairly over employment issues. Most states have public employee labor laws modeled partially on the NLRA, although it is fairly common that strikes are more restricted or not permitted at all.

The NLRA and most state labor laws give specially appointed labor boards, rather than the courts, the primary responsibility to interpret labor law and formulate labor policies. These boards generally do not have as strong a norm as the courts in favor of consistent policy with only gradual change; therefore, unions face a good deal of uncertainty when dealing with issues that call the meaning of the labor laws into question.

One such issue is what sorts of employees are protected by the NLRA and state labor laws. This has been a particularly thorny issue when it comes to campus labor unionism.

At private schools, faculty are generally not protected by labor laws when they can be seen as part of the management of the university, which means it is mostly adjunct and other contingent faculty that get these protections. In some states, management employees are protected, which gives faculty more leeway. Non-teaching staff are usually unproblematically recognized as protected employees.

Union protections for graduate teaching and research assistants have been established in some state systems for decades but were only briefly extended to private universities in the early 2000s. Currently, the National Labor Relations Board does not recognize private universities' graduate assistants as employees, claiming they are primarily students, their stipends are a form of financial aid, and the work they do is part of their education.

Again, the issue of whether a group of employees is protected by the NLRA or state labor law is not an issue of whether they are allowed to form a union. Rather, the issue is whether the government will grant special protections to their union organizing in recognition of the value of peaceful labor-management relations. Groups of employees not protected in this way still have rights to freedom of speech and assembly under the Constitution and may in some cases have anti-discrimination laws working in their

favor. Union organizing among groups unprotected by labor law is certainly more risky but hardly unprecedented; it is, of course, how unions got their start.

It is a mistake to act – as many people looking at the legal issues surrounding unions tend to do – as if labor laws are the only laws affecting workers’ rights to organize. Workers not protected by labor laws still have Constitutional rights to freedom of speech, assembly, and association (from the 1st Amendment) as well as freedom from involuntary servitude (from the 13th Amendment). Before the NLRA and state labor laws were adopted, these constitutional rights were an important part of labor’s legal arsenal, and the labor movement’s court battles expanded the reach of those rights. Constitutional rights and other laws such as those against workplace discrimination should be taken into account by anyone seeking to organize labor unions among workers not protected by labor laws.

4.2. How Unions Are Organized

The members of labor unions are, to a large degree, free to organize themselves as they see fit, but there are some traditional commonalities in how most unions decide to do so.

The membership of the union generally retains the right to approve a negotiated contract governing the relationship between the employer and its employees, as well as the right to approve any strike that the leadership wants to call. Matters other than these tend to be handled by the elected leaders of the union, who tend to be a president and other members of an executive board.

There is an additional layer of leadership in most unions that have a collectively bargained employment contract: union stewards. These are employees either elected by their co-workers or appointed by the union leadership who are charged with monitoring whether the employer is complying with the contract and helping employees with grievances or disciplinary proceedings.

Unions are sometimes amalgamated, which means that one union can represent multiple “units” of employees, whether they work for the same employer or different employers, who have or are seeking to bargain separate contracts. In this case, employees within a particular unit may be more limited in their ability to elect and control the leadership within their unit, since their primary voice is often as members of the union as a whole.

Most campus unions are affiliated with national or international unions. The elected leadership of these unions often has some authority to take actions on behalf of local union members.

The centralized and hierarchical structure of most unions may come as a surprise to student and community activists who are accustomed to working in more informal, grassroots organizations. Theoretically, when a union has a traditional structure, it is because the employees represented by the union chose that union, with that structure, to represent them, and union leaders generally rely on this position and expect this decision to be respected by non-union members who want to work with the union as part of a network or coalition.

Unions are, of course, not all the same, and some have adopted more decentralized structures as well as structures more oriented toward activist pursuits beyond contract bargaining and monitoring. This has particularly been the case in parts of the higher education field.

4.3. The Role of Labor Unions on Campus

As organizations with limits on the availability of resources, labor unions as a general rule place the highest priority on securing good collective bargaining contracts for their members and vigorously policing the workplace relations that take place under those contracts to ensure that employers are observing them. This is their legal responsibility, and many labor activists still regard it as their primary

reason for existence. This is particularly the priority when it comes to local unions, while state and national federation officials often take responsibility for orchestrating a union's activist and electoral politics.

To the extent that you are going to seek to bring labor unions into a campus network, you need to be aware of these priorities. Campus labor unions, when they are active on broader issues at all, usually reserve most of this work for years in which they are not campaigning for new contracts. This can be a source of frustration when it seems like everything else gets put on the back burner in "contract years," but it is a reality of dealing with labor unions.

If labor unions at your campus are not very open to collaborating on broader issues beyond their contracts, remember that these are democratic organizations that are supposed to be responsive to their members. If you are a union member who is interested in the agenda for democratizing education, you can work within your union to get it to reassess its place within the broader campus activist community. If your campus organizing does not yet include union members, you may want to first reach out to individuals within the unions to figure out what potential there may be for involving them in the movement. This may take time and patience, but it will be worth it; change needs to come from inside the union.

4.4. Building Campus Labor

The right of workers to organize is part of the Democratizing Higher Education Charter and an integral aspect of campus democracy. If labor unions are not already in place on your campus, investing in their creation and recognition can be part of your strategy for building a stronger pro-democracy movement.

The initiative for starting a new union needs to come at least partially from the workers themselves who would be represented by the union. If you are a campus worker and are not represented by a labor union, consider the potential for organizing your co-workers. If you are not a campus worker, think about which groups of workers on campus are not represented by labor unions and whether there is anyone who might want to take the lead.

If a group of campus workers chooses to start working within an existing national or international union, that organization can provide them with information and resources to get organized. Of course, these unions choose organizing campaigns strategically, and they may not choose to devote resources to your campus.

A prospective labor union can consider other options for organizing in the absence of outside support. One possibility that has attracted some interest recently is minority (or "members-only") unionism, in which a union builds itself on the basis of membership and seeks negotiations with the employer on behalf of its members, through whatever means are available to it. The idea is that if the union is successful in advocating on behalf of its members, more people will join it and it will eventually be able to become the representative of all an employer's workers. This is in contrast to the usual method of trying to build majority support for the union before it has started actually representing its members. Members-only unionism was prominent in the early days of the U.S. labor movement and is getting some renewed attention as more and more barriers are put in the place of traditional organizing drives.

A campaign for union recognition against a recalcitrant administration, if handled properly, can bring together disparate campus constituencies and unite a broad range of interests behind a clear example of campus democracy vs. corporate bureaucracy.

Above we mentioned that some categories of workers are not protected by federal or state labor laws. It is worth mentioning again that this does not mean these workers are barred from forming a union, nor

does it mean that they are not protected by a myriad of other laws and constitutional rights. The lack of labor law protections gives employers more weapons to use against unions trying to get off the ground, but whether it is practical for them to use those weapons depends on the extent to which the workers are united behind the union and willing to take risks to assert their right to organize.

And just because labor unions that work within the structure laid out by labor laws have a legal responsibility to represent a particular class of employees in contract negotiations does not mean they have to limit themselves to that task. Some campus labor unions are now trying innovative ways to expand their reach, for example graduate employee unions that offer associate membership to all graduate students at the university and are thus able to represent the graduate student community overall with the power of a union. Approaches like these encourage new attitudes about unions that can help incorporate them more firmly into a movement to democratize education on your campus.

5. Student Unionism

As students struggle for a more democratic education, they often come up against the limits of both informal, volunteer-based activist organizing, on the one hand, and of student government and other formal structures of campus governance, on the other. And as labor union struggles have involved supporters from other campus constituencies, many have come to see unionism as a powerful means of organizing and representing their interests. For some, these two lines of thought have come together in the form of new efforts to build student unions.

5.1. Context for Student Unionism

In the United States, the term “student union” most often brings to mind a building, maintained by a college or university, where student activities and/or resources are housed. But in most countries, student unions are active, autonomous organizations of students that function in a manner roughly analogous to labor unions, except that they represent people on the basis of their status as students rather than as workers.

In a recent example of student union power, French students were in the headlines in 2006 when their massive strikes and campus occupations – backed by labor unions, political parties, and community organizations – led to the withdrawal of a law that would have allowed employers to fire young workers more easily. The existence of highly political student unions is part of what made this victory possible. In France and many other countries, student unions are voluntary organizations that mobilize students nationwide on a political basis.

There are also many countries where student unions are formally set up by the laws or charters creating the university systems. In these countries, student unions more closely resemble student government. However, they are generally much more autonomous and more oriented toward representation and advocacy of student interests – rather than governance of student life – than American student governments.

In the United States, student unionism as distinct from student government is not a common part of the campus landscape. Student governments may or may not be firmly established as part of the university system, but they are generally oriented toward including some students in administrative structures rather than advocating student interests. They may control large budgets, but this control is often checked by the power of administrators.

In countries where student unionism has a strong presence, it is because students have fought for their unions. At some American universities, students are coming to the conclusion that this particular manifestation of student power is worth fighting for.

5.2. Legal Considerations

As described above, there is an extensive body of law that has been developed to govern relations between labor unions and employers and to some extent facilitate certain forms of labor union activism. The same cannot be said for student unionism.

Labor unions won legal protections from the government because they were successful at making a compelling case to workers to take the risks entailed in joining a union before any such protections existed. They fought for and often won rights in the workplace and gained political power to the point where government leaders saw it as necessary to channel their power into somewhat controllable legal channels. This is a lesson campus democracy activists should take seriously. Just because there is no

legal structure specifically enabling student unions does not mean there is no potential for student unionism in the United States.

That said, it of course may be the case on your campus that there are laws in your favor. If you are at a state university or college where there is a legal mandate that students be allowed to organize their student government as they see fit, it may be possible to build a student union through this structure. Indeed, student governments at such institutions tend to act more independently, more in the student union mold, than student governments that do not enjoy legally sanctioned autonomy. As mentioned above, in many countries, most notably Canada, student unions exist because they are enabled by law as part of the university structure.

If this is not the case at your university, or if you determine that your student government is not of a sort that can be effectively built into a student union, there are still legal structures that may be helpful to you. As described above in the section on labor unions, Constitutional rights and other laws, though not normally associated with the right to organize, are relevant to that right and can be brought to bear on it through innovative legal strategy.

Specifically, your First Amendment rights to freedom of speech and expression, and above all, association, cannot be infringed by a state-run school, and there are limits to what a private school can do to interfere with them. (Remember that most “private” schools are publicly chartered corporations, and heavily subsidized by state and federal governments.) The education and anti-discrimination laws of your state may also prevent administrators from disciplining or harassing student union activists and may establish other student rights that can be utilized in the process of building a student union.

These laws may not have been broadly applied to campus organizing in the past, but that does not mean they cannot be in the future. In the process of organizing a student union on your campus, it is possible that you could expand legal rights for future generations of organizers.

5.3. Approaches to Student Unionism

Supporters of student unionism at a number of universities, colleges, and state systems are considering several different approaches to the same basic goal of building autonomous, grassroots, and resourced organizations to advance student interests and win democratization.

5.3.1. Student Government. One approach is to work to transform student government. As pointed out above, student government in the United States is primarily oriented toward governance of students rather than advocacy of student interests. However, it is possible that, at least in some campus structures, student government could be split into multiple branches such that one branch could continue to carry out the traditional governance activities of student government while another branch could represent and mobilize students in the manner of a student union. Indeed, some student associations already operate much in this way.

Of course, at most campuses, student governments get funded through administrative allocations. Even where there is a separate student activity fee levied on students and distributed directly to student government, the amount of this fee may be set year to year by the administration, or the administration may be able to alter the fee set by student government. If the administration does not want student government taking on an advocacy or representative function beyond what it perceives as “representation” – participation in university committees – it may be able to limit this funding to what is necessary to carry out governance functions and/or – at most universities – put limits on the purposes for which that funding can be used.

However, there may be creative solutions to this problem. For instance, student governments seeking to build themselves into student unions could create autonomous funds with money raised from other sources, or they could take political action to force changes to ensure that the allocation of student fees is wholly a matter for the student government. Note that at some schools, some of the groundwork has already be laid. This is likely because a previous generation of students has taken action to partially change student government into a vehicle for student advocacy. (One legacy of these movements is the use of the term “student association” to refer to some student governments.) The successes of these movements can be built upon where they have occurred and emulated where they have not yet taken hold.

5.3.2. New Organizations. Another approach is to organize a student union as a completely new organization. This can be done either on a campus-by-campus basis or across multiple campuses, for instance within a state system of higher education.

Such an organization would mobilize students behind the idea of an independent student union and would likely spend much of its initial energy fighting for its right to exist, to organize on campus, and to obtain direct funding from student fees much as labor unions obtain direct funding from paycheck withholdings. This approach means abstaining from the opportunity to work within any existing structure in order to assert a new vision of student unionism that is immediately put into place in the form of a new organization.

Of course, this approach comes with some obvious risks. Since there is no legal or institutional support for independent student unions, you would be essentially starting from scratch. You may be able to get startup funding from organizations supportive of student unionism, but you would need to quickly mobilize a strong enough grassroots base of students willing to volunteer their time and energy and take risks to support a student union.

The battle for a portion of student fees to go to the student union is a particularly difficult one and one that you may not decide to tackle right away. Even if you can win the political battle and convince an overwhelming majority of students to support student fee funding of the union, the administration and/or a court could attempt to block it.

5.3.3. Hybrid Labor/Student Unionism. A third approach creatively utilizes the existing institutional structure of labor unions to build toward student unionism – or cross-constituency higher education unionism – through a hybrid model. This approach is based in part on the fact that many students are also employed by the university in work-study positions or other jobs that they take on to help pay for school. The idea is to build a labor union for students employed by the university, then expand its reach to encompass the representation of students in general. This is analogous to the sort of “associate membership” mentioned in the section on labor unions above.

Of course, one major difference is that there is not much legal precedent for the recognition of a labor union for work-study students and other generally part-time, generally temporary student workers at universities. Furthermore, established labor unions have until recently shown little interest in organizing this group. Therefore, to the extent that the institution of labor unionism has any advantages for this organizing model, it is less a matter of concrete legal, financial, or organizational advantage and more a matter of the legitimacy and communicability of the labor union model.

People have a general sense of what labor unions are, what they are for, and why they are important. Convincing people to join and support a labor union – even one that may not be protected under labor law – could be a more straightforward exercise than convincing them to join and support a student union. A labor union would also be identified immediately with a recognizable social justice issue – the working conditions of students who are employed by the university.

A labor union that is founded from the beginning with the intention of being more than “just” a labor union and growing to embrace a student unionism model may be able to overcome more easily some of the limits of the traditional labor union model.

Of course, this is by no means guaranteed. If students employed by the university see themselves as a privileged or more important group within the union, this could lead to tensions and confusion about what the union’s purpose is. These tensions can be exacerbated if the union is affiliated to local, state, and/or national labor organizations that push collective bargaining for campus workers to the exclusion of other aspects of the student unionism model and campus democracy agenda.

5.3.4. Multiple and Hybrid Approaches. These models need not each stand alone. They can be implemented alongside each other, or hybrid approaches can be crafted (just as the third approach is a hybrid of labor unionism and traditional student unionism). Separate advocacy structures for students can be designed to work together to maximize their effectiveness, or multiple functions can be carried out by a single organization. The above approaches are just useful starting points for a discussion of possible strategies for your campus.

LIBERTY TREE
Foundation for the Democratic Revolution
Democratizing Education Program

PO Box 260217, Madison, Wisconsin 53726-0217
608 257 1606 Education@LibertyTreeFDR.org
<http://www.LibertyTreeFDR.org>