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Patrick Moran – President

**HB 211 – State Personnel – Collective Bargaining –
Graduate Assistants and Postdoctoral Association
Appropriations Committee
January 21, 2025**

FAVORABLE

AFSCME Council 3 stands in strong support of House Bill 211. This legislation establishes collective bargaining rights for certain graduate assistants and postdoctoral associates at a system institution, Morgan State University, or St. Mary's College of Maryland. The legislation also establishes separate bargaining units for graduate assistants and postdoctoral associates. Collective bargaining rights for graduate workers in Maryland are long overdue, and AFSCME Council 3 applauds the sponsor for bringing forward this legislation.

Graduate workers in the private sector and numerous public sector jurisdictions already possess the right to collectively bargain, and many of these workers have had this right for decades. More than two decades ago, the National Labor Relations Board (NLRB) ruled that interns, residents, and clinical fellows at a teaching hospital were covered employees entitled to collective bargaining under the National Labor Relations Act.¹ Subsequently, the NLRB ruled that graduate assistants (teaching assistants, graduate assistants, and research assistants) at New York University were employees within the meaning of the National Labor Relations Act (NLRA).² Less than a decade ago, the NLRB reversed prior precedent issued under the Bush Administration, which had overturned the *New York University* decision.³ The Board's decision to re-instate prior precedent holding that graduate assistants are employees within the meaning of the NLRA was based on the Board's finding that statutory coverage under the Act was permitted where the evidence in the case established that the graduate assistants fell within the plain meaning of "employee" under the Act, possessed a common law employment relationship with the University, and was supported by the policies of the NLRA, which encourages the practice of collective bargaining and "to protect[] the exercise by workers of full freedom of association, self-organization, and designation of representatives of their own choosing."⁴ The Board noted that the existence of an additional relationship, e.g. an academic relationship, did not preclude the NLRA from applying to graduate assistants.⁵

¹ *Boston Medical Center*, 330 NLRB 152 (1999).

² *New York University*, 332 NLRB 1205 (2000).

³ *Columbia University*, 364 NLRB No. 90 (2016).

⁴ *Id.*

⁵ *Id.* at 6.

Similarly, numerous public sector jurisdictions across the country recognize the freedom to collectively bargain for graduate assistants.⁶ Approximately 56 years ago, the New York State Public Employment Relations Board recognized a union to act as the exclusive representative for various graduate student assistants at the City University of New York.⁷ Graduate student workers at the University of Wisconsin-Madison established the first collective bargaining agreement for graduate teaching assistants in the U.S. in 1970.⁸ Closely thereafter, graduate student workers in New Jersey at Rutgers University reached their first collective bargaining agreement in 1972.⁹ In short, there is a long history of collective bargaining among graduate student workers at public institutions of higher education across the United States.

Here in Maryland, more than sixty percent of graduate workers at the University of Maryland have signed authorization cards to join the United Auto Workers. Upon enactment of the bill, more than 4,000 workers would be able to join a union and have the freedom to collectively bargain. The graduate workers at the University of Maryland have asked the University for voluntary recognition in November 2024, yet the University refused. The legislature has the opportunity to show they are on the side of workers and the labor movement by passing this legislation.

We urge the committee to issue a favorable report on House Bill 211.

⁶ See, William Herbert and Jacob Apkarian, *Everything Passes, Everything Changes: Unionization and Collective Bargaining in Higher Education*, 21 *Perspectives On Work* 30, 31-32 (2017), https://www.hunter.cuny.edu/ncscbhep/assets/files/LERA%20Herbert_Apkarian_POW_HigherEd_2017.pdf.

⁷ *Board of Higher Education of the City of New York*, 2 PERB ¶ 3000, 1969 WL 189424 (NY PERB 1969). See also, *Board of Higher Education of the City of New York*, 2 PERB ¶ 3056, 1968 WL 179832 (NY PERB 1968).

⁸ *Agreement between the University of Wisconsin-Madison and the Teaching Assistants Association (TAA)*, Apr. 1970 – Sept. 1971, <https://www.hunter.cuny.edu/ncscbhep/assets/files/TAA%20Agreement.pdf>.

⁹ Rutgers AAUP-AFT, *Who We Are: Our History*, <https://rutgersaaup.org/our-history/>.

