

Solidarity with student workers?

## **Several church bodies have adopted prolabor statements. The actions of their affiliated schools often tell another story.**

by [Amulya Mandava](#) in the [September 2022](#) issue



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In 2017, Tom Jorsch, a professor of US history at Bethany College in Lindsborg, Kansas, was informed that his application for tenure had been denied because of issues related to his lack of “collegiality.” Administrators told him that in order to qualify for tenure in the future, he would have to agree to complete a special plan first.

Jorsch was shocked. There had been no mention of issues regarding collegiality, or of the possibility of this special plan, when he had submitted his tenure application, he told me in an interview. The plan the administrators presented to him did not specify what problems they had with his collegiality, nor did it have any concrete criteria that he could meet. The plan also required absolute confidentiality from Jorsch—stipulating that he was not to talk to anyone about it except for the administrators overseeing its execution.

To Jorsch, the grounds of his tenure denial were unjust. He also felt that they exemplified broader issues with the tenure process at Bethany. With no union to back him, and no alternative recourse within the college, he decided to take action and start a larger conversation with his coworkers about the issue.

While he didn't know it at the time, the events that were about to unfold would end up transforming legal precedents for religious exemptions in the academic workplace, threatening the already precarious situation of workers at many Christian educational institutions.

Academic workplaces are rife with abuses of [power](#). Most academic workers—both teachers and researchers—are in precarious positions. The majority are not unionized. Those who don't nab the handful of rapidly disappearing tenure-track jobs may be vastly underpaid, and many work on short-term contracts. In the absence of contractual protections provided by a union or the federal legal protections of tenure, these workers are often [sexually harassed](#) or discriminated against on the basis of race or ability with little recourse. Upper-level administrators typically have unilateral authority over the working conditions of academic workers. If workers speak out against what they perceive to be harmful or unfair workplace conditions, they can be retaliated against or even fired with minimal explanation.

Academic workers at religious institutions in the United States face particular difficulties. As he faced down his tenure decision, Jorsch was about to find this out.

On June 22, 2017, Jorsch took action. He wrote an email to the president of Bethany College, copying all his faculty peers. In the email, Jorsch outlined an extensive critique of the tenure process he experienced at Bethany. He argued that it was unjust and that it violated the policies established by the American Association of University Professors.

Jorsch also explained that he was distributing this statement to faculty, the college's board chair, and the Kansas AAUP in the hope of opening a dialogue and collectively solving the college's issues with governance and tenuring. According to Jorsch, he wanted not only to protest the treatment he had received but also to start a conversation about workplace issues he and his coworkers faced.

In response to Jorsch's email, the college cut off his email access and fired him. In a notice sent to him on June 26, college president William Jones cited Jorsch's letter as the cause of his employment termination, calling it a "blatant act of

insubordination.”

Jorsch’s wife, Lisa Guinn, who was teaching at Bethany on a renewable contract, was also essentially fired. It seemed clear to both Jorsch and Guinn that Guinn’s employment was terminated solely because she was married to Jorsch. She never even received formal notice that she was losing her job. Instead, when Jorsch went to clean out his office upon being fired, the head of his department informed him, off-the-cuff, that his wife’s contract would not be renewed for the following semester.

After trying to handle the situation internally, the couple ultimately decided that their only recourse was to bring a case against Bethany College before the National Labor Relations Board, the federal agency that enforces the National Labor Relations Act. Jorsch’s mass email was protected under the NLRA’s right for private-sector workers to discuss their “terms and conditions of employment” and “workplace concerns” with their peers. By taking their case to the NLRB, however, Jorsch and Guinn were about to come up against a carveout in the law—a specific genre of religious exemption that has been used by employers for decades in different forms.

The argument generally goes as follows: the federal government should have no jurisdiction over aspects of labor relations at religious institutions—from Catholic hospitals to religious schools to Hobby Lobby—on the grounds that regulation of employment conditions at these workplaces would bring with it the threat of an unacceptable entanglement of church and state. The logic is that such entanglement could violate the First Amendment and constitute an unconstitutional interference into the church by the state.

Jorsch and Guinn did not anticipate that this form of religious exemption would become a barrier in their case. In fact, their lawyers’ major worry was that Bethany College administrators would argue that Jorsch, as faculty, was not a worker but rather a manager and therefore not covered by the NLRA. This argument had been made successfully in similar cases before.

Bethany College is affiliated with the Evangelical Lutheran Church in America and is therefore a Christian institution. But an earlier NLRB case regarding another ELCA institution, Pacific Lutheran University, made it seem unlikely that the NLRB would break precedent to grant Bethany a religious exemption. The standard set in the 2014 decision *Pacific Lutheran University* was exacting. In order for an educational

institution to argue it should be exempt from NLRB oversight on religious grounds, it had to show not simply that it was religious in character and mission but that the specific employees involved in the case at hand were doing work to further the school's religious mission. Under this standard, a nun teaching theology at a parochial school would be outside the NLRB's jurisdiction, but a chemistry professor at a Lutheran college would not. *Pacific Lutheran* allowed NLRB judges to inquire about the role of the specific employee to determine inclusion or exemption.

Jorsch and Guinn taught secular courses in history. According to them, they had never heard a single word about faith-based responsibilities in Bethany's job postings, their interviews, or their contracts. Their everyday work lives on campus did not involve church attendance, religious mentoring of students, or any other religious duties. They were obviously not ministerial employees. As non-ministerial employees, it seemed unlikely to them that they would fall under the *Pacific Lutheran* standard.

The first judge who handled the case agreed. She dismissed Bethany's religious exemption argument (along with the argument that Jorsch was a manager) and found in favor of Jorsch and Guinn. But the college appealed the decision, which sent the case to a higher-level panel composed of the full board. By the time Jorsch and Guinn's appeal moved to the board, the NLRB was stacked with members appointed by President Donald Trump. On June 10, 2020, the new board accepted the religious exemption argument and ruled in favor of Bethany. In doing so, it overturned *Pacific Lutheran* and set a new standard for religious exemptions.

Under the new *Bethany* ruling, the NLRB cannot ask a religious school about the particular roles of different employees or evaluate the extent of a school's substantive religious character. Instead, a school needs to meet a simple three-part test in order to establish its right to a religious exemption.

The test requires very little to fulfill. The school must "hold itself out to the public as a religious institution," be a nonprofit, and be religiously affiliated. Even if 99 percent of the teachers at a school are entirely uninvolved in faith-based education or practice, they are not protected by the NLRA, as long as their employer passes this test.

Following the NLRB's decision in *Bethany*, other religious schools jumped at the chance to use the same tactic.

A 2019 election had already established a union of teachers and staff at Brooklyn Friends School, a Quaker K-12 school in New York City. The newly formed union was in the midst of negotiating a contract with school administrators, a contract they anticipated would be enforced by the NLRB. In 2020 they were hoping to reach finalized agreements about matters including severance pay and a formal grievance process for employees, both of which were particularly important to workers given the uncertainties that arose with the pandemic. But after the *Bethany* ruling, administrators at Brooklyn Friends decided to try their hand at the religious exemption. They appealed to the Trump-appointed NLRB to decertify the new union.

As part of this effort, the school's administration released a series of FAQs for parents and community members, which emphasized repeatedly that a union would get in the way of authentic Quaker "decision-making principles" and would prevent the administration from dealing directly with workers and having open conversations.

Workers at Boston College, a Jesuit institution, have faced similar difficulties with school administrators. In 2017, student workers voted to form a union affiliated with the United Auto Workers, establishing the Boston College Graduate Employees Union (BCGEU-UAW). The union campaign has focused on securing improved basic health-care protections and cost of living adjustments in one of the most expensive cities in the country.

But administrators have refused to recognize the union or enter into contract negotiations. Instead, they developed extensive anti-union materials and, according to student workers, have attempted to suppress pro-union actions. Most notably, in 2018, a dozen students staged a walkout at a fundraising event and picketed on campus grounds (with police permission) in support of the unionization campaign. They were immediately formally disciplined by the university.

Among administrators' myriad efforts to suppress unionization are appeals to the logic of religious exemption from federal oversight. On their [union information website](#), the Boston College administration, like many universities, argues that despite receiving salaried wages as teachers and researchers, students are simply not workers. But the administration also spends significant space on arguments about religious exemption, citing other Jesuit schools that have rejected NLRB intervention (while leaving out any mention of those that have recognized unions).

The administration insists that, despite its long-standing relationships with other unions at Boston College, “respecting the rights of workers to organize does not require support for government control over matters involving our graduate students, or outside interference in our academic enterprise.” The ground for rejecting a union, according to this logic, boils down to a rejection of government intervention.

Two organizers in Boston College’s graduate student union, Sabina Sullivan and Andrew Clark, told me that they believe this argument about “government control” and “outside interference” into the school’s religious function is a red herring. To them, administrators are not deploying these arguments about protecting the college’s religious mission and academic enterprise in good faith. Hailey Huget, a founding member of Georgetown University’s union of student workers, the Georgetown Alliance of Graduate Employees, said in an interview that many of these institutions are “resorting to religious exemptions” not necessarily because of genuine fears regarding religious liberty or their ministerial mission, but to “try to circumvent . . . labor organizing on campus.”

Yet worker solidarity and organizing have mounted significant challenges to administrators at Christian institutions.

Workers at Brooklyn Friends School directly challenged their employer’s faith-based claims in public. They pointed out that administrators only appealed to consensus-based Quaker decision-making when it was convenient. “The School is selective in choosing when to engage in deep conversations, hear dissenting voices, or use Quaker process,” [they contended](#). “It does not use Quaker process to make decisions over finances or operations, the two things that are at issue in the collective bargaining process.”

Brooklyn Friends School workers insisted that, far from blocking authentic Quaker consensus building, union representation would level the conversational playing field, rectify a history of unilateral and exclusionary decision making imposed by management onto community members, and thus keep the school in line with Quaker religious values.

Union organizing efforts at Brooklyn Friends School included a [petition](#) through the Labor-Religion Coalition of New York State, which gathered over 600 signatures in support of the union, as well as an [open letter](#) signed by more than 1,000 of the

school's students, teachers, staff, parents, and alumni. Both letters noted that union organizing was in line with Quaker values and argued that administration efforts to decertify a union by appealing to a Trump-era NLRB was a direct contradiction of the school's social justice legacy.

Union members went on strike on October 5, 2020. By October 7, as the strike continued and community support mounted, Brooklyn Friends School workers won their union. Administrators promised to withdraw their petition to decertify the union, and the strike ended. By March 2021, a contract was ratified. Brooklyn Friends School now stands as one of many workplaces unionized in Local 2110 of the UAW.

Workers at Georgetown won their own key victory in 2018. Georgetown's approach to blocking student unionization occurred years before the *Bethany* decision. Georgetown administrators did not attempt to file for a religious exemption. Instead, their strategy was to argue that because students could not be workers, Jesuit traditions of respect for labor organizing simply did not apply.

Yet student workers at Georgetown refused to accept this logic. They pointed out that graduate student workers at Georgetown *do* work. They receive wages and are documented as employees in Georgetown's own online accounting system. But student workers also knew by 2018 that it was dangerous to appeal to the Trump-era NLRB for help. Doing so could reverse the Obama-era ruling that categorized graduate student workers as employees under the NLRA, which would jeopardize organizing nationwide. They realized that appealing to labor law was not the best way forward.

Instead, Georgetown student workers turned up the pressure on administrators through direct action and coalition building that built on the community's strengths. One avenue was to pressure Georgetown administrators to abide by the duties laid out in Georgetown's [Just Employment Policy](#). The JEP, established in 2005 as a model to be used by Jesuit institutions, emphasizes the university's commitment to recognize the right of all workers to collectively organize and bargain. The policy connects this commitment directly to the history of Catholic social teaching on work and dignity. It is an attempt to "translate abstract Catholic values into specific changes to university structures, helping advocates show university officials what their moral vision might look like in practice." Having already embraced the JEP for all other categories of workers, and in the face of growing pressure to extend

protections to student workers, Georgetown ultimately recognized a new union.

Georgetown administrators and student workers came to an agreement: they held an election monitored by the American Arbitration Association, an independent organization that oversees union elections and resolves labor disputes, which does not require the involvement of a federal government body like the NLRB to oversee the process. The Georgetown Alliance of Graduate Employees–American Federation of Teachers (GAGE-AFT Local 06440) was officially certified on November 9, 2018.

The JEP at Georgetown did not emerge from private appeals to Georgetown administrators. It did not develop overnight, nor without conflict. It was a hard-won outcome that resulted from years of coalition organizing with staff, faculty, Jesuit community leaders, and students—including a nine-day solidarity hunger strike in 2005, in which 26 Georgetown undergraduates drank only water and juice until the administration agreed to improve wages for university staff. In 2018, graduate student workers were able to invoke that same university legacy in arguing for their own recognition and rights as workers.

Huget spoke to me about the impact that Catholic professors had on administrators at Georgetown during both the JEP struggle and the GAGE struggle, as well as the ways that organizers appealed to Georgetown alumni to increase pressure on the administration. “I think [Georgetown is] just trying to figure out, as an institution, what does it mean to be a Catholic university in the 21st century. And there’s a lot of tension and conflict that comes with that,” she said. “Having people from the same religious community vocally pushing for pro-labor stances was really important.”

Georgetown workers’ fight was precedent setting. The Biden-era NLRB, as it currently stands in 2022, has been decidedly more pro-worker than its Trump-era predecessor. Boston College student workers could, and may, decide to appeal to the NLRB to mandate that their administrators recognize and negotiate with their union.

But Georgetown’s example also shows that Boston College administrators are, ironically, correct that respecting the rights of workers doesn’t require government control. Georgetown has proven that religious universities are capable of negotiating in good faith with student worker unions without the involvement of the federal government. They often simply refuse.



Boston College union organizers emphasize the hypocrisy of the school cracking down on student labor organizing despite the college's ostensible commitment to pro-worker Jesuit principles—but they say this has made student workers all the more dedicated. “Having a Jesuit priest lying to your face about the Jesuit tradition is that much more galvanizing,” Clark told me. “Yes, it’s frustrating. But it also makes you want to fight that much harder.”

Like student workers at Georgetown, those at Boston College understand the theological underpinnings of Jesuit attitudes toward labor organizing. They have fought for union recognition, risking serious discipline and retaliation. Moving forward, they need community allies—not only Boston College community members and alumni, but the larger Catholic community—to speak up on their behalf as they try to build pressure and hold administrators accountable.

Such support is invaluable. Chad Frazier, a longtime organizer at Georgetown, spoke in an interview of the significance of the involvement of clergy and laypeople alike. He emphasized that starting with workers is key: “*Just ask us*. You can just say to workers: tell me what your day is like, tell me what I can do.” He pointed out that clergy can offer to speak from the pulpit in support of struggling workers and can galvanize their congregations to get on the picket line or speak in favor of workers. Some congregations have money or the ability to fundraise, and they can leverage that power by making donations.

The convention histories and theological literature of groups including the ELCA, Quakers, and Jesuits show that these communities have published formal written statements connecting their faith traditions to workers’ rights. Official written statements advocating for worker rights—especially the right to collectively organize—are certainly important.

But what makes a difference in the concrete struggles of workers is the involvement of the church as a living body of believers that will not rest until these statements are enacted. With the future of labor law and religious exemptions looking at best uneven and at worst inhospitable to organizing, support from the community of the faithful is crucial. Whether at a hospital, factory, or university, workers need us to hold our religious institutions accountable. Without active solidarity, statements of faith are simply words on a page.

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