

A State Legislative Agenda for Higher Ed Contingent Staff

With Examples of AFT State Legislative Victories

A Right to Organize a Union and Collectively Bargain. In [New Mexico](#),¹ 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 Jersey](#),³ and [California](#)⁴ 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 "detering or discouraging public employees from becoming or remaining members" in unions.

A Fully Funded Higher Education System. AFT affiliates in [Washington](#),⁵ and [California](#)⁶ have won significant gains in funding for higher education through their legislative advocacy. [New York's budget for 2022-2023](#) provides a down payment on needed reinvestments in public higher education.⁷ The New York Senate's initial budget echoed our affiliates' campaign by branding these investments as a "New Deal" for SUNY and CUNY. There is approximately \$500 million in new funding. This includes \$106 million for SUNY and CUNY to hire additional full-time faculty. Programs to support non-traditional and disadvantaged students received a ten 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 a 2 percent of state aid, as well as 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 [College Faculty Minimum Wage Act](#),⁸ which would have provided a minimum wage of \$5,000 per course assignment credit hour.
- **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.⁹ 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. The [Rhode Island Federation of Teachers](#)

[and Health Professionals](#) is working on legislation that would give adjuncts who taught at least 50% of the hours as full-time faculty access to healthcare.¹⁰ And in [New Jersey](#), part-time faculty can qualify for the state employee healthcare system after 60 days of employment.¹¹

- **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 [New Mexico law](#) 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% or more of a full-time load is eligible to participate in the defined benefit pension plan.¹²
- **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. [PFL](#) provides partial income protection at 60% of weekly earnings, with a maximum of \$1,216 per week. PFL pays for a total of 6 weeks.¹³

Just Cause Protections. New Mexico [law](#) 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.¹⁴ [AFT-New Mexico](#) has advocated that such protections should be extended to contingent faculty.¹⁵

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 version of this [bill](#) would also have required that part-time and temporary faculty receive pay and benefits that are equal with those of tenured and tenure-track faculty of comparable qualifications doing comparable work, on a pro rata basis.¹⁶ More recently AFT-Colorado worked with AAUP 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.¹⁷

Access to Unemployment Benefits for Breaks Between Semesters. A longstanding concern for adjunct faculty is a set of employer practices where adjunct faculty get deemed as having reasonable assurance of reemployment after a semester, but where 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, AFT advocated for a [law](#) 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.¹⁸ 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 [law](#) includes the same prerequisite requirements as Washington's law with some additional provisions.¹⁹

Professional Respect. The [College Faculty Minimum Wage Act](#), advocated for by AFT-New Mexico during the 2021 session, would have extended professional respect to contingent faculty by providing:²⁰

- **Autonomy in Selecting Curriculum and Textbooks.** The AFT-New Mexico bill would have extended the same rights as tenure-track faculty 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, 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 AFT-New Mexico bill also would have provided contingent faculty with 10-weeks' notice for course assignments to provide faculty with 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 cancelled without sufficient notice.

Support from Higher Education Employers in Accessing Public Student Loan Forgiveness. The [California Federation of Teachers](#) successfully advocated for legislation requiring all colleges to give employees annual notice of renewal and a copy of the employment certification form with the employer portion already completed so staff are aware of their Public Service Loan Forgiveness (PSLF) eligibility and have the documentation they need to submit proof of employment at a public service organization to the Department of Education.²¹ AFT has advocated that "full-time equivalency" - for PSLF purposes - be calculated by multiplying each credit or contact hour taught per week by at least 3.35 hours. That multiplier is included in a federal Department of Education [proposal](#) for determining eligibility for PSLF.²² The bill also states that the PSLF multiplier should be treated as a floor that does not supersede any policy or contract that provides a higher adjustment factor.

AFT affiliates in Washington and Oregon have advocated for similar legislation to help adjunct faculty qualify for PSLF. In [Oregon](#), the largest change provides that every credit hour spent in the classroom per week would be counted as 4.35 hours worked and encourages employers to

use a 30-hour work week as the full-time classification for PSLF employer certification.²³

[Washington](#) passed legislation similar to California's bill, but like the Oregon bill, Washington's bill explicitly allows the PSLF multiplier to count retroactively, meaning individuals can have the multiplier applied to past semesters worked when applying for PSLF.²⁴

Affiliates in [New York are supporting PSLF legislation](#) that builds on these reforms by creating a structure to allow public employers to directly certify adjunct/applicant employment with the Department of Education, when ED develops the capability to accept this data.²⁵ Currently, DOE only accepts direct certification for federal employees, but it has indicated the intent to expand this to other PSLF-eligible employers. If a public service employer does not directly certify employment with ED, then the employer would be required to produce and disseminate annual PSLF employment certification forms for any employee who requests a PSLF form, any current employee who has previously certified employment, and any employee who is ending their employment with the public service employer.

While Oregon's adjunct multiplier is the highest, the New York bill eases the annual certification process. Oregon and Washington's legislation explicitly notes that the multiplier applies retroactively. We believe employers can apply standards retroactively in any case but making it clear will help redress past miscounted payments and help adjunct faculty reach the 120 monthly payment mark for loan forgiveness sooner. A proactive PSLF bill for adjuncts would be one that includes all these important elements.

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 [Maryland](#),²⁶ [New Jersey](#),²⁷ [New York](#),²⁸ and [California](#)²⁹ 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 right-wing public records fishing. New laws in [California](#),³⁰ [New Jersey](#),³¹ [Washington](#),³² [Oregon](#),³³ and [Connecticut](#)³⁴ provide notice to unions and safeguard against the release of member 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 and persuade them to drop their union membership.

A Safe Workplace. The federal Occupational Safety and Health Act establishes and protects workers' rights to a safe and healthful workplace. However, OSHA 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 [Massachusetts](#) with legislation enacted in 2018.³⁵ During the COVID crisis, AFT advocated for a permanent safety standard in [Virginia](#) and other states to ensure that workers have access to personal protective equipment, a well-ventilated workplace, and for written COVID-19 policies.³⁶

A Voice in University Governance. 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 and adjunct faculty designated seats on university governing boards. In [Maine](#), a bill was introduced during the 2022 session that would create three non-voting board seats one of which would be filled by an adjunct faculty member.³⁷ [AFT-Vermont worked on legislation](#) in 2022 to expand the boards of the Vermont State Colleges and University of Vermont from 15 to 23.³⁸ 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 resulting lack of access to postsecondary education limits democratic participation as well as economic progress and results in a tragic loss of diverse human potential. The free tuition policy offered by City University of New York system until the 1970s is the model AFT aspires to. AFT affiliates have supported programs in [California](#),³⁹ [Washington](#),⁴⁰ [New York](#),⁴¹ and other states that create free college for at least some students in some public institutions. Most recently [AFT-New Mexico](#) helped win funding for free college for high school graduates and adults who want to return to school.⁴² This \$75 million one-time funding is unique in that it applies to non-traditional 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.

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 off 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 “[Get on Your 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.⁴³ 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. As one of the requirements to qualify for the federal PSLF 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 towards the payments for PSLF.

Working with the [Student Borrower Protection Center](#),⁴⁴ 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, [AFT Maryland advocated for legislation](#) 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.⁴⁵ [AFT Colorado advocated for legislation that](#) 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.⁴⁶

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 [Educational Opportunity Program](#) which provides students with funding and other academic and student support services that help these students succeed in college.⁴⁷

¹ AFT, “AFT President Weingarten and AFT New Mexico President Ly React to Final Passage of House Bill 364,” Feb 2020, <https://www.aft.org/press-release/aft-president-weingarten-and-aft-new-mexico-president-ly-react-final-passage>

² New Mexico Legislature, House Bill 364, 2020 session, <https://www.nmlegis.gov/Legislation/Legislation?Chamber=H&LegType=B&LegNo=364&year=20>

³ New Jersey Legislature, Assembly Bill 3686, 2018-2019 session, <https://www.njleg.state.nj.us/bill-search/2018/A3686>

⁴ California Legislature, Senate Bill 285, 2017-2018 session, https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201720180SB285

⁵ Washington Governor’s Office, “Inslee signs package of education bills, ushers in one of the most progressive education investments nationwide,” May 2021, <https://medium.com/wagovernor/inslee-signs-package-of-education-bills-ushers-in-one-of-the-most-progressive-education-87f2a490d755>.

⁶ CFT, “Legislative Update,” January 2021, https://www.cft.org/sites/main/files/file-attachments/cft-legislative-update-gov_budget-2021-01-25.pdf.

⁷ Rep. Luis. Sepulveda, “Majority One-House Budget Resolution: Empowering New Yorkers To Thrive And Building An Equitable Future,” March 2022, <https://www.nysenate.gov/newsroom/press-releases/luis-r-sepulveda/majority-one-house-budget-resolution-empowering-new-yorkers>.

⁸ New Mexico Legislature, House Bill 289, 2021 session, <https://www.nmlegis.gov/Sessions/21%20Regular/bills/house/HB0289.pdf>

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- ⁹ Oregon Legislature, Senate Bill 551, 2021 session, <https://olis.oregonlegislature.gov/liz/2021R1/Measures/Overview/SB551> Also see; AFT-Oregon, “Oregon's 2021 Legislative Session Ends with Historic Achievements,” 2021, <http://or.aft.org/political-legislative-news/oregons-2021-legislative-session-ends-historic-achievements>
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- ¹² Policy excludes student employees, resident physicians, post-doctoral employees, and full VA employees; New Mexico Educational Retirement Board, “Online Member Handbook,” July 2020, https://www.nmerb.org/wp-content/uploads/2020/08/NMERB-Member-Handbook-final-7-25-2020.final_-2.pdf. CF <https://www.nmerb.org/wp-content/uploads/2020/08/2.82.2-Membership-rev.-7.14.20.pdf>
- ¹³ USF Part Time Faculty Association, “Sick Leave and other Paid Medical Leave,” <https://sites.google.com/site/usfptfa/benefits/sick-leave-benefits>.
- ¹⁴ Removal of faculty members; compensation of secretary and treasurer restricted. NM Stat § 21.1.7 (2020), <https://law.justia.com/codes/new-mexico/2020/chapter-21/article-1/section-21-1-7/>
- ¹⁵ New Mexico Legislature, House Bill 289, 2021 session, <https://www.nmlegis.gov/Sessions/21%20Regular/bills/house/HB0289.pdf>
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- ²² US Department of Education, Office of Postsecondary Education, “Proposed Regulatory Text for Issue Papers #4 and 5: Public Service Loan Forgiveness,” Dec 2021, <https://www2.ed.gov/policy/highered/reg/hearulemaking/2021/pslfpropregtext4and5.pdf>.
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- ⁴⁰ <https://lawfilesex.leg.wa.gov/biennium/2019-20/Pdf/Bills/Session%20Laws/House/2158-S2.SL.pdf?q=20220603121223>
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- ⁴³ <https://codes.findlaw.com/ny/education-law/edn-sect-679-g.html> See also: New York State, Higher Education Services Corporation, “NYS Get on Your Feet Loan Forgiveness Program,” <https://www.hesc.ny.gov/repay-your-loans/repayment-options-assistance/loan-forgiveness-cancellation-and-discharge/nys-get-on-your-feet-loan-forgiveness-program.html#:~:text=The%20NYS%20Get%20on%20Your,percent%20of%20their%20discretionary%20income.>
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