

ARTICLE __ Nondiscrimination

SECTION __ 1. – Intention

~~Consistent with the Cornell University Policy 6.4 (Prohibited Bias, Discrimination, Harassment, and Sexual and Related Misconduct) which is specifically incorporated by reference herein,~~ The University will not discriminate against any Graduate Student Worker based upon race, ethnicity, creed, religion, national origin, ~~caste~~, marital status, family status, pregnancy status, color, sexual orientation, sex, gender identity or expression (whether actual or perceived), age, immigration status, citizenship status, actual or perceived disability (including persons associated with such a person), size, height, weight, veteran status, arrest or criminal record, an individual's genetic information, domestic violence victim status, caregiver status, or any other ~~legally~~ protected class or status. ~~The parties agree that any changes or modifications to the University policies referenced above shall automatically become incorporated into this provision and this Agreement.~~

Graduate Student Workers shall have the right to work in an environment free from abuse of power and deserve to be treated with respect and dignity.

Although discrimination based on caste is not currently a protected status under applicable law and/or University policy, the University agrees that it will not summarily dismiss a complaint filed by a Graduate Student Worker based on caste discrimination on the sole basis that caste is not an explicitly protected status under law or its policy. The University will process such complaints consistent with appropriate internal investigative processes ~~in line with the procedures for other categories of as such complaints may constitute~~ discrimination. ~~based upon race, color, religion, shared ancestry, national origin, or other applicable protected class.~~

For purposes of this Article the term “caste” is defined as a system of rigid social stratification characterized by hereditary status, endogamy, and social barriers sanctioned by custom, law, or religion, that originated in South Asia.

Neither the University nor the Union shall discriminate against any Graduate Student Worker on the basis of their membership or non-membership in the Union or for engaging in Union activity.

SECTION __.2 – Dispute Resolution

SECTION __.2.1 – Cross-Filing of Grievances and Complaints Under University Policy 6.4

The Union may file a grievance under Article [X] Grievance ~~Procedure~~ on behalf of a Graduate Student Worker experiencing discrimination based upon any of the protected

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categories as defined in Section 1 related to the Graduate Student Worker's employment based on conduct engaged in by a "Person of Authority."

For purposes of this Article, a "Person of Authority" shall be defined as any University employee who has the potential to interfere with the Graduate Student Worker's employment. ~~occurring in the context of a graduate student workers' employment consistent with the terms set forth in this Section.~~

The Union will specifically designate these claims as Article [X] Nondiscrimination grievances to distinguish them from other grievances pursuant to Article [X] Grievance Procedure. Upon the filing of a grievance pursuant to this Article, ~~[X] Nondiscrimination grievances shall be the complainant graduate student worker~~ the Union will simultaneously cross-file a complaint with ~~claims sent to~~ the University's Office of Institutional Equity and Title IX ("OIETIX") ~~consistent with its existing procedure, as may be amended from time to time.~~

Once filed, OIETIX will review the complaint and ~~Office of Inclusion and Student Engagement (OISE), which~~ will determine in its sole discretion, whether the underlying complaint is subject to University Policy 6.4 ~~within two (2) weeks the recipient of the claim.~~ The Union and the University will develop and specify an agreed upon intake form for filing Article [X] Nondiscrimination grievances. ~~In addition to being processed in accordance with Article [X] Grievance Procedure, claims filed as Article [X] Nondiscrimination grievances shall be processed according to the University's applicable policies and procedures, including but not limited to Cornell University Policy 6.4 (Prohibited Bias, Discrimination, Harassment, and Sexual and Related Misconduct).~~ This cross-filing of claims with OIETIX is intended to ensure the University's ability to fully comply with applicable laws and regulations.

Depending on whether the complaint filed with OIETIX is covered by University Policy 6.4, the grievance will proceed consistent with Section 2.1.1 or 2.1.2 below:

SECTION__ 2.1.1 – Complaints Covered by Policy 6.4

For complaints of alleged discrimination under this Article that OIETIX determines are covered by University Policy 6.4, the Union's grievance shall be held in abeyance, without prejudice, ~~after cross-filing so that applicable University policies and procedures can proceed. until applicable University policies and procedures, including any appeal process, have been exhausted.~~ The University shall complete the processes in a timely and efficient manner. If University procedures under Policy 6.4 are not fully completed within twenty (20) working days of cross-filing, the Union may remove the grievance from abeyance. The abeyance period may be extended by mutual agreement. The Union Steward or

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representative will be entitled to make information requests to the University while Policy 6.4 processes are pursued.

~~Following the issuance of the University's final determination under Policy 6.4, the University shall be entitled to resume processing of the Union's grievance in accordance with the Article [X] (Grievance) of this Agreement.~~

SECTION __2.1.2 – Complaints Not Covered by Policy 6.4

For complaints of alleged discrimination under this Article that OIETIX determines are not covered by University Policy 6.4, the Union's grievance shall be immediately processed in accordance with Article [X] Grievance of this Agreement.

~~Article [X] Nondiscrimination grievances may be resolved at Step 1, Step 2, or Step 3 of the grievance procedure before Title IX has issued a final determination. Remedies agreed upon before the final Title IX determination shall not constitute an admission of guilt or an acceptance of legal liability by the University. Remedies and determinations regarding violations of this agreement and applicable University policy may differ. Cases where OISE determines that the complaint does not involve an allegation that implicates the University's procedures for Title IX sexual harassment or the Violence Against Women Act may still result in violations of this article.~~

SECTION __.2.2 – Arbitration

If a grievance under this Article proceeds to Arbitration under Article [X] (Grievance), the sole question before the arbitrator shall be whether this Article has been violated and, if so, what remedy is due the graduate student worker.

Arbitrators hearing grievances pursuant to this Article must be individuals with requisite employment discrimination law experience and, if hearing Title IX claims, appropriate Title IX training.

~~The arbitrator shall not have the authority to render a remedy concerning any academic matter or any aspect of the graduate student worker's status as a student. The arbitrator shall not have the authority to substitute their judgment for the University's decision makers with regard to whether a violation of University Policy 6.4, or any other policies, has occurred or require the University or the parties to repeat the investigatory or adjudication process. The arbitrator shall not have the authority to impose any discipline.~~

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~~sanctions, penalty, or any other requirements upon any individual outside of the bargaining unit.~~

~~In cases where grievances filed under this section are still subject to ongoing Title IX investigations at the time of the completion of Step 3, the time limit for arbitrating such grievances may be extended by mutual agreement until the completion of the Title IX proceedings, or until the time at which the ongoing Title IX case is dismissed. If the Union decides the Title IX determination does not satisfactorily resolve the Article [X] Nondiscrimination grievance, the Union may appeal the dispute to arbitration following the procedure outlined in Article [X] Grievance Procedure. Notice of intent to arbitrate the dispute must be sent within ninety (90) working days after the date of the final Title IX determination.~~

SECTION __.2.3 – Complaints Against Students

Graduate Student Workers shall ~~not~~ have access to the grievance and arbitration process set forth in Article [x] Grievance for claims ~~under this Article regarding conduct that could impact working conditions. arising between a student and a graduate student worker when the conduct is unrelated to their employment.~~

~~The parties agree that complaints alleging discrimination where the alleged discriminator and discriminatee are both students at the University, regardless of whether they are in the bargaining unit, shall not be subject to Article [x] (Grievance) and shall be addressed exclusively through the University's policies and procedures.~~

SECTION __.3 – Support for Employees Experiencing Harassment or Discrimination

Consistent with University Policy 6.4, Any Graduate Student Worker who experiences harassment or discrimination may be accompanied by a Union representative in any meeting related to the process of addressing the complaint through University channels, including, but not limited to Title IX, OSCCS, and the Graduate School.

~~The University has the affirmative duty to inform the Graduate Student Worker of their right to Union representation. The Union shall have the right to request that the University provide training on these University policies for Union representatives.~~ The Union shall have the right to request interim relief and supportive measures in such cases, consistent with University Policy 6.4. ~~Such requests shall not be unreasonably denied.~~

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