

Article 23: Anti-Discrimination and Harassment

23.1 Non-Discrimination.

23.1.1 ~~Neither the University nor the Union shall not discriminate or harass any ASE on the basis of a protected class. The following are considered protected classes for the purposes of this Article: Neither the University nor the Union shall discriminate or harass any ASE on the basis race; sex and/or gender (including pregnancy, childbirth, medical conditions related to pregnancy and childbirth, and breastfeeding and medical conditions related to breastfeeding); sexual orientation; gender identity or expression; religion; age; color; creed; national or ethnic origin (including caste or ancestry); marital status; genetic information (including family medical history); status as a protected veteran, an honorably discharged veteran, or member of the military; physical, mental, or sensory disability (including HIV status or other chronic health conditions and the use of a trained service animal); immigration or citizenship status, except as authorized by federal or state law, regulation, or government contract; or Union activity. race; religion or religious sect; creed; color; marital status; national or ethnic origin (including caste or ancestry); sex and/or gender (including pregnancy, childbirth, medical conditions related to pregnancy and childbirth, and breastfeeding and medical conditions related to breastfeeding); sexual orientation; gender identity or expression; disability physical, mental, or sensory disability (including HIV status or other chronic health conditions or the use of a trained service animal); genetic information (including family medical history or medical conditions, HIV status or other chronic health condition); age; service in the uniformed services (i.e., status as a protected veteran, an honorably discharged veteran, or member of the military); immigration or citizenship status; physical appearance (including body weight or size); political affiliation or union activity.~~

Executive Policy (EP) 15 Policy Prohibiting Discrimination and Harassment is the University's policy that applies to discrimination and harassment. The University's definitions for discrimination, harassment, and sexual harassment under EP 15 is found at policies.wsu.edu/ep15

23.1.2 “Gender expression” is defined as a person’s gender-related appearance or behavior, or the perception of such appearance or behavior, whether or not stereotypically associated with the person’s sex assigned at birth.

23.1.3 “Gender identity” is defined as each person’s internal understanding of their gender, and associated terms that communicate that understanding, which may include man, woman, a combination of man and woman, neither man nor woman, a gender different from the person’s sex assigned at birth, transgender, or others not described here.

23.2 Sexual Harassment.

23.2.1 The University shall respond promptly ~~and effectively~~ to reports of prohibited behavior and shall take appropriate action to prevent ~~and, to correct~~ behavior, ~~and when necessary, to discipline behavior~~ that violates the law, ~~or this Article, or University policy.~~

23.2.2 Sexual Harassment is a form of discrimination and encompasses unwelcome conduct on the basis of sex and/or gender when certain conditions are met, as defined in WSU’s EP 15, in accordance with state and federal laws and regulations. Sexual harassment also encompasses “gender-based harassment,” which means harassment of a non-sexual nature that occurs because of a person’s sex and/or gender. It also includes harassment based on a person’s nonconformity with sex and/or gender stereotypes. Examples include but are not limited to those defined in Executive Policy 15 such as: Sexual Harassment is defined as unwelcome sexual or romantic advances, unwelcome requests for sexual favors, and other unwelcome verbal, nonverbal or physical contact of a sexual nature when:

- a. egregious conduct such as sexual misconduct, sexual assault, stalking, and intimate partner violence, conduct sufficiently severe, persistent, or pervasive that it unreasonably denies, adversely limits, or interferes with a person’s participation in or benefit from the education, employment, or other programs, activities or services of the University, and creates an intimidating or offensive environment.
- b. Quid Pro Quo: Direct or implied threats that submission to sexual advances is a condition of employment or the basis of employment decisions, work status, promotion, grades, academic evaluation, work references, letters of recommendation, or other decisions affecting participation in a University program, activity, or service.

23.2.3 Sexual harassment may include incidents between any members of the University community, including: administrators, faculty and other academic appointees, staff, student employees (including ASEs), students, coaches, residents, interns, and non-student or non-employee participants in University programs or events (e.g., vendors, contractors, visitors, and patients); in hierarchical relationships and between peers, and; between individuals of any gender or gender identity.

23.3 Retaliation.

The University prohibits retaliation, including but not limited to against or by ASEs, intimidation, threats, coercion, or discrimination against any individual for the purpose of interfering with any right or privilege secured by this contract or University policy. Retaliation may include conduct that would discourage a reasonable person from reporting prohibited conduct or cases when the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this contract or University policy. For the purposes of this article, retaliation is defined as an adverse action against a person based on their report or other disclosure of alleged Prohibited Conduct to a University employee or their participation in the investigation, reporting and remediation, or disciplinary processes provided for in the University Policies or this contract. An adverse action is conduct that would discourage a reasonable person from reporting Prohibited conduct or participating in a process provided for in University policy or this Article, such as threats, intimidation, harassment and coercion.

23.4 Policies.

The University shall provide ASEs with information about its non-discrimination and harassment policies.

23.5 Micro-Aggressions.

Micro-aggressions are everyday exchanges— including words and actions—that denigrate and exclude individuals based on their membership in a group or class of individuals ~~as defined in 23.1.1, and are considered forms of discrimination for the purposes of this Agreement.~~ The Union and University shall meet, upon request, up to three (3) times per calendar year to evaluate progress on the joint goal of eliminating micro-aggressions against ASEs and discuss plans to advance that goal.

23.6 Resolution Procedures.

23.6.1 ~~A discrimination, or discriminatory or sexual harassment complaint may be filed with the University Compliance and Civil Rights (CCR) office or other appropriate office and/or as a grievance in accordance with Article 3 of this Agreement. ASEs may also file discrimination complaints with appropriate state and federal agencies. The parties agree to encourage the filing of discrimination complaints through the University CCR.~~

- a. CCR shall notify those filing complaints that union-represented employees may have additional rights under their respective Collective Bargaining Agreement.
- ~~b. Nothing in this Article precludes Academic Student Employees from filing a claim with an outside agency.~~

23.7 Grievance Procedure

23.7.16.2 ~~Timeline:~~ An ASE shall have 120 ~~180~~ days from an incident to submit a grievance alleging a violation of this Article.

- a. If a grievance is filed in accordance with Article XX that includes an alleged violation of this Article, the University shall forward the allegation(s) to the Title IX/EEO Officer for review. If the Title IX/EEO Officer determines an investigation is warranted, the Union and the University may agree in writing that the grievance, or a portion thereof, specifically related to this Article will be held in abeyance while the investigation is ongoing. While an investigation is pending the University will implement interim measures as appropriate, per Section XX of this Article.
- b. As soon as practicable, after the Title IX/EEO Officer receives the grievance, they will make an initial assessment to determine whether (a) allegations describe conduct that is prohibited under EP 15; b) such conduct is within the University's investigative authority or jurisdiction, and c) whether the complaint can proceed or should be dismissed pursuant to CCR's Procedural Guidelines.
- c. The Title IX/EEO Officer may implement interim measures, in accordance with section XX above.

- d. In the event that a formal investigation is conducted, the investigation shall be conducted in accordance with the EP 15 and the CCR Procedural Guidelines.
- e. When the University issues the report or otherwise concludes its review/investigation/required disciplinary hearing process/appeal, the abeyance shall automatically terminate, and the Step 1 process shall resume
- f. In any event, the parties recognize that having a fair investigation and proceeding to an arbitration hearing on the merits with a completed investigation report (report of findings) is optimal. The parties may mutually agree to postpone the arbitration until the completed investigation report is available.

23.7.26.2 Interim Measures & Remedies:

- a. Remedies available to ASEs are designed to be voluntary and restore or preserve an ASE's access to their work or education, however may be implemented by University as determined necessary. The University will consider the personal preference of an ASE when implementing interim measures and remedies. Remedies available for a grievance or complaint alleging discrimination and harassment may include, but are not limited to: change to a different workstation, schedule, work location, unit, department, or position for which the ASE is qualified; training and education of the implicated parties; no contact remedies.
- b. When a grievance or complaint is filed related to harassment or discrimination, the University will offer any of the above remedies on an interim basis, measures as appropriate and available and will implement appropriate remedies on an ongoing basis if a complaint and/or grievance is sustained. Such measures shall be intended to preserve an ASE's ability to allow the ASE to continue learn and work in an training in an environment free from discriminatory and sexual harassment and/or discrimination.
- e. ~~Interim measures available to ASEs may include, but are not limited to: change to a different workstation, schedule, work location, unit, department, or position for which the ASE is qualified provided that, in the case of a grievant, the change is voluntary and equitable; training and education of the Respondent; and no-contact remedies requests and directives.~~

23.6.4 Remedies:

- a. ~~Interim measure and r~~Remedies available to ASEs voluntary and where possible and may include, but are not limited to: change to a different available workstation, schedule, work location, unit, department, or position for which the ASE is qualified provided that, in the case of the Complainant/Grievant, the change is voluntary and equitable;

~~training and education of the Respondent; no contact remedies which shall be administered voluntarily and equitably.~~

~~b. The University shall implement appropriate remedies if a complaint and/or grievance is sustained, or as an alternative measure. Such remedies, shall ensure that the ASE to continue training and working in an environment free from harassment and/or discrimination.~~

23.6.45 Representation: The ASE (as a Complainant, Grievant, Respondent, or Witness) shall have the right to be represented by an advocate or advisor of their choice, including a Union representative, in the grievance, ~~arbitration~~, and/or complaint process.

23.6.56 Grievance Procedure: If an ASE ~~Academic Student Employee~~ files a grievance that includes an alleged violation of this ~~a~~ Article, the University shall forward the ~~complaint-grievance~~ to the campus office responsible for reviewing allegations of discrimination and/or sexual harassment. If the campus office determines an investigation is warranted, the Union and the University may agree in writing that the grievance, or a portion thereof, be held in abeyance during the time the allegations are under review. If the Union and the University do not agree in writing to put the grievance in abeyance, the grievance shall continue pursuant to Article **3** - Grievance and Arbitration Procedures.

23.7 Educational and Training Resources

23.7.1 Upon written request from the UAW, the University and the UAW agree to discuss effective training methodology for the prevention of sexual harassment and other forms of discrimination at a systemwide joint labor management committee. The committee shall commence its discussions within six months of Contract ratification~~during Academic Year 2023-24.~~

23.8 Equity Survey

23.8.1 The Union and the University are committed to a diverse ASE workforce. Therefore, the parties will establish a joint committee to discuss methods of recruiting and retaining, and encouraging career development of ASEs who belong to underrepresented groups (e.g. ~~people from ethnic or racial~~ minorities, women, individuals with disabilities ~~and, older adults~~, veterans in accordance with EP12 - Equal Employment Opportunity and Affirmative Action Policy). The parties will also discuss and develop ways of improving the climate of ASE workplaces, particularly in cases when ASEs perceive disparate treatment (for example, as a result of native language/dialect or parent/caregiver status).

23.8.2 ~~Starting in Academic Year 2023-2024~~ Upon ratification of the Agreement and during the Fall semester of every odd-numbered calendar year thereafter, the Union and the University shall jointly develop an equity survey for administer ~~adapt the annual Graduate School Survey~~ an equity survey for so it pertains to all ASEs to be and ~~focused~~ on ASE-specific concerns. In the first Semester following ratification, the University and the Union shall jointly agree upon baseline questions to be used through

~~the life of the contract prior to administration of the survey.~~ In the ~~Spring~~Fall-Semester of ~~even-numbered~~ calendar years, the survey shall be distributed through an online survey platform (e.g., Qualtrics, Survey Monkey) to all ASEs. In addition, any department or hiring unit may decide, on a volunteer basis, to jointly develop a department-specific survey, with additional questions to be distributed by a Department Chair or designee and an ASE in the Department designated by the Union. Responses from all surveys shall be available to the Union and the University. Once the surveys have closed and no later than the end of the ~~Fall~~Spring-semester of ~~the~~ at following academic year, the Union and the University shall hold a Joint Labor Management meeting to discuss results and strategize further steps for promoting equity, inclusion, transparency, and accountability.

23.9 All-Gender Restrooms

23.9.1 The University and the Union recognize the importance of having safe and accessible campus restroom facilities.

23.9.2 ~~Upon request, the University shall publish will provide the ASE with the location of the nearest all-gender restrooms on the WSU website, as well as provide this list upon appointment and upon request, and require that departments provide the ASE with a list of all-gender restrooms near their office location upon appointment. The University shall ensure that ASEs have access to all-gender restrooms at their worksite upon request from the ASE or their union representative. In locations where there are a sufficient number of restrooms for the designation of at least one restroom as an all-gender restroom, one will be provided within six months of contract ratification. In locations where there are not a sufficient number of all-gender restrooms to are not available designate one as an all-gender restroom, ASEs will be allowed to use the gender segregated restroom consistent with their gender identity or expression. Within six months of ratification, The University and the Union will~~ may discuss all-gender restrooms gap areas during Union Management meetings. The university will provide annual updates to the union on progress toward increasing the number of all-gender restrooms at WSU.

23.9.3 ~~The University shall ensure that all ASEs have access to all-gender restrooms at their worksite.~~