

**UNIVERSITY COUNTERPROPOSAL
1-22-13**

**ARTICLE 8
NON-DISCRIMINATION**

Section 1. The University affirms its legal obligations with regard to unlawful discrimination on account of race, creed, color, sex, religion, national origin, ancestry, marital status, domestic partnership status, familial status, age, disability, veteran status, sexual orientation, gender identity or expression, or membership or non-membership in or activity on behalf of or in opposition to the Union,. Unlawful discrimination includes unlawful sexual harassment. The University affirms its obligations as a federal contractor with regard to affirmative action.

Section 2. A bargaining unit member shall complete any training regarding unlawful discrimination that is required by the University.

Section 3. Neither the University nor the Union shall unlawfully discriminate against, intimidate, restrain, coerce, or interfere with any bargaining unit member because of, or with respect to, his or her lawful Union activities, including participation in a grievance, or membership, or the right to refrain from such activities or membership. In addition, there shall be no discrimination against any bargaining unit member in the application of the terms of this Agreement because of membership or non-membership in the Union.

Section 4. A bargaining unit member may elect either to pursue his or her statutory or common law rights with regard to complaints of unlawful discrimination or to file a grievance under Article ___ of this Agreement. The election to pursue such statutory rights shall preclude the filing of a grievance regarding the subject matter of a complaint. The election to file a grievance shall constitute a release and waiver by the bargaining unit member of his or her statutory and common law claims with regard to unlawful discrimination.

Section 5. Notwithstanding Section 4 above, a claim that is not subject to grievance or arbitration under this Agreement, including a claim that a bargaining unit member was denied a promotion or tenure because of discrimination, does not become subject to grievance or arbitration because one of the grounds for the grievance or arbitration is discrimination.