

1 UNIVERSITY COUNTERPROPOSAL

2 4-2-13

3
4 ARTICLE 8
5 NON-DISCRIMINATION
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7 **Section 1.** The University ~~Administration~~ affirms its dedication to the principles of equal
8 opportunity and freedom from ~~unfair unlawful~~ discrimination; as such, the University
9 ~~Administration~~ will not discriminate on account of race, creed, color, sex, religion, national
10 origin, ancestry, marital status, domestic partnership status, familial status, age, disability,
11 veteran status, sexual orientation, gender identity or expression, or membership or non-
12 membership in or activity on behalf of or in opposition to the Union. Unlawful discrimination
13 includes unlawful sexual harassment.

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15 ~~As used in this section, discrimination means any act that unreasonably differentiates treatment,~~
16 ~~intended or unintended, or any act that is fair in form but discriminatory in operation.~~
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18 The University affirms its obligations as a federal contractor with regard to affirmative action.
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20 **Section 2.** A bargaining unit faculty member shall complete any training regarding unlawful
21 discrimination that is required by the University.
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23 ~~Every bargaining unit faculty member is entitled to a workplace free of discriminatory~~
24 ~~harassment, including sexual harassment. Sexual harassment is a type of gender discrimination~~
25 ~~which is defined as any sexual advance, any request for sexual favors, or other verbal or physical~~
26 ~~conduct of a sexual nature when:~~
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- 28 a) ~~Submission to such advances, requests, or conduct is made either explicitly or~~
29 ~~implicitly a term or condition of an individual's employment; or~~
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31 b) ~~Submission to or rejection of such advances, requests, or conduct by an~~
32 ~~individual is used as a basis or condition for employment and/or academic~~
33 ~~decisions affecting such individual; or~~
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35 e)a) ~~Such conduct is unwelcome and sufficiently severe or pervasive that it~~
36 ~~interferes with work performance because it has created an intimidating,~~
37 ~~hostile, or offensive work environment for the individual who is the object of~~
38 ~~such conduct, and where the conduct would have such an effect on a~~
39 ~~reasonable person.~~
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41 **Section 3.** Neither the University ~~Administration~~ nor the Union shall unlawfully discriminate
42 against, intimidate, restrain, coerce, or interfere with any bargaining unit faculty member

1 because of, or with respect to, his or her lawful Union activities, including participation in a
2 grievance, or membership, or the right to refrain from such activities or membership. In
3 addition, there shall be no discrimination against any bargaining unit faculty member in the
4 application of the terms of this Agreement because of membership or non-membership in the
5 Union.

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

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