

ARTICLE 3

ANTI-DISCRIMINATION AND HARASSMENT

3.1 NON-DISCRIMINATION

3.1.1 Neither the University nor the Union shall discriminate or harass any ASE on the basis of a protected class. The following, are considered protected classes for the purposes of this Article: 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.

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/prf/ep15/.

3.1.2 "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.

3.1.3 "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.

3.2 SEXUAL HARASSMENT

3.2.1 The University shall respond promptly to reports of prohibited behavior and shall take appropriate action to prevent and correct behavior that violates the law, this Article, or University policy.

3.2.2 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 EP 15 such as:

- a. Egregious conduct such as sexual misconduct, sexual assault, stalking, and intimate partner violence.
- 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.

3.2.3 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.

3.3 RETALIATION

The University prohibits retaliation, including but not limited to intimidation, threats, coercion, or discrimination. For the purpose of this Article, as outlined in EP 15, 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.

3.4 POLICIES

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

3.5 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. 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.

3.6 RESOLUTION PROCEDURES

- 3.6.1 A discrimination, 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 37 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.

3.7 GRIEVANCE PROCEDURE

- 3.7.1 **Timeline:** An ASE shall have 120 days from an incident to submit a grievance alleging a violation of this Article.
- a. If a grievance is filed in accordance with Article 37 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 3.7.2 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 3.7.2 below.
- 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.

3.7.2 **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 the 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, as appropriate and available and will implement appropriate remedies on an ongoing basis if a complaint and/or grievance is sustained. Such measures are intended to preserve an ASE's ability to learn and work in an environment free from harassment and/or discrimination.

- 3.7.3 **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, and/or complaint process.
- 3.7.4 **Grievance Procedure**: If an ASE files a grievance that includes an alleged violation of this Article, the University shall forward the 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 37 - Grievance and Arbitration Procedures.

3.8 EDUCATIONAL AND TRAINING RESOURCES

- 3.8.1 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 system-wide joint labor management committee. The committee shall commence its discussions within six (6) months of Contract ratification.

3.9 EQUITY SURVEY

- 3.9.1 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. minorities, women, individuals with disabilities and 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).
- 3.9.2 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 all ASEs to be focused on ASE-specific concerns. In the Spring 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 semester of the 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.

3.10 ALL-GENDER RESTROOMS

- 3.10.1 The University and the Union recognize the importance of having safe and accessible campus restroom facilities.
- 3.10.2 The University shall publish the location of all all-gender restrooms on the WSU website, as well as provide this list upon appointment and upon request. In locations where all gender restrooms are not available, ASEs will be allowed to use the gender segregated restroom consistent with their gender identity or expression. Within six (6) months of ratification, the University and the Union will discuss all-gender restrooms gap areas during Union Management meetings. Upon request, the University will provide annual updates to the Union on progress toward increasing the number of all-gender restrooms at WSU.