

Memorandum of Understanding

The purpose of this Memorandum of Understanding between the United Faculty of Central (the “Union”), and Central Washington University (the “University”) is to memorialize an agreement to modify their collective bargaining agreement, which by prior agreement was extended to cover the period from September 1, 2017 through August 31, 2021 (the “Agreement”).

Recitals

As an institution of higher education that benefits from federal funding, the University is obligated to comply with Title IX of the Education Amendments Act of 1972. Effective August 14, 2020, and following the unsuccessful lawsuits filed by various state Attorneys General to enjoin the new regulations, the U.S. Department of Education (DOE) adopted new final regulations that materially changed how claims of sexual harassment under Title IX are processed. See 34 C.F.R. § 106. As required by Title IX, the University has changed its policies and procedures to comply with the new regulations relating to processing, investigating, and adjudicating sexual misconduct allegations.

The new DOE regulations include detailed provisions applicable to the filing of complaints alleging sexual harassment/violence actionable under Title IX, the investigation of those complaints, the procedure for making disciplinary decisions based on a Title IX complaint, and the process for the appeal of any such discipline. In a situation where a faculty member is accused of sexual harassment/violence in a manner actionable under Title IX, the new regulations require the University to follow processes that conflict with certain provisions of the Agreement. Because the University is obligated to adhere to the regulatory requirements in such circumstances, the parties have adopted this Memorandum to address the preemptive effect of the regulations where they conflict with the Agreement.

Agreement

Now, therefore, the parties agree as follows:

1. Article 24 of the Agreement, Disciplinary Action/Just Cause, is amended to include the following provisions:

24.8 Title IX of the Education Amendments Act of 1972 (“Title IX”)

24.8.1. Pursuant to Title IX, institutions of higher education are required to develop policies and procedures to prevent and respond to sexual harassment, to train employees and students in their rights and responsibilities under Title IX, and to properly process, investigate, and adjudicate sexual harassment allegations. The Employer’s policies and procedures incorporate specific requirements of the federal law and regulations governing processing of complaints, conducting

investigations and adjudications, imposing disciplinary sanctions, and resolving appeals. Where provisions of this Agreement relating to discipline and appeals of discipline decisions conflict with policies and procedures adopted by the University to comply with federal laws and regulations, the University policies and procedures preempt the conflicting provisions of this Agreement.

24.8.2 Sections 24.1 (just cause) and 24.2 (progressive discipline) shall apply to disciplinary determinations made in any Title IX proceeding contemplated by the Policy and Procedures referenced in Section 24.8.1 above. Specifically, the Decision-Maker at a Title IX hearing will consider the employee's disciplinary record as well as the principles of just cause before determining the appropriate discipline, if any. Likewise, the failure to appropriately apply Sections 24.1 and 24.2 in making a disciplinary determination shall be permissible bases for an appeal of the determination by the Decision-Maker.

24.8.3 Claims of sexual misconduct where the conduct does not meet the definition of sexual harassment under Title IX can still be investigated by CWU under other applicable state or federal law or CWU's internal policies/procedures.

24.9 Disciplinary decisions reached through the University's Title IX policies described in Section 24.8 above must be appealed pursuant to those policies, and may not be challenged through the grievance or complaint procedures set forth in Article 27 – Grievance and Complaint Procedure.

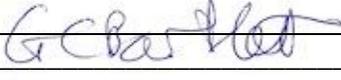
2. This Memorandum will take effect as of the date it is fully executed by the parties, and will expire on the effective date of a successor to the Agreement.

Signed and Dated this 8th day of January, 2021.

Central Washington University

United Faculty of Central

By 
Title: President

By 
Title: President, United Faculty of Central