

## Union-University Conduct Rules Pre-Election Agreement

This Agreement entered into this 21 day of June, 2018 between Brown University ("Brown" or "University") and the STAND UP FOR GRADUATE STUDENT EMPLOYEES ("SUGSE") and the AMERICAN FEDERATION OF TEACHERS ("AFT") hereinafter collectively referred to as the "Union".

WHEREAS, the Union seeks to represent a bargaining unit of Ph.D. and Masters students enrolled in Brown's Graduate School, who perform research and/or instructional services at Brown as duly appointed Teaching Assistants (TA), and Research Assistants (RA), and Proctorships (collectively referred to as "Graduate Assistants"); and

WHEREAS, the parties wish to establish a fair and expeditious process to enable Graduate Assistants to decide, free of unlawful interference, whether they wish the Union to be designated as their exclusive collective bargaining representative; and

WHEREAS, the parties desire to maintain a mutually respectful relationship throughout this process;

### **PART I**

#### **1. General Principles of Communication:**

- a. The parties agree that they will treat each other with mutual respect and dignity throughout the process described in this Agreement. Members of the Brown community: students, faculty, and administration shall have the right to express their views concerning unionization of the Graduate Assistants consistent with University policies, the NLRA and this Agreement.
- b. Union representatives will be permitted to:
  - i. Access all areas of campus that are generally open to graduate students for the purposes of communicating with and meeting with graduate students

and posting literature, provided that the Union does not in any way interrupt the operations of Brown;

- ii. Reserve space on campus for meetings, and will be permitted appropriate access to graduate student offices, lounges and other facilities and spaces that are typically occupied by graduate students.
- iii. However, the Union will provide the names of these Union representatives to Brown no later than 24 hours prior to their arrival on campus.
- c. If a graduate student objects to being solicited by the Union, the Union representatives must halt solicitation and/or leave the area as promptly as possible.
- d. Any access discussed in this section shall not be permitted in areas of the University that are restricted for health/safety/privacy reasons including, but not limited to, areas that have limited access.

## **2. Pre-election Procedures**

- A. In order for this Agreement to be effective, the Union agrees it will not file a representation petition with the NLRB at any time to seek an election or request recognition as representative of the Graduate Assistants.
- B. Prior to the filing of a petition, Brown will comply to the extent permitted by law to provide the Union with a list of all graduate students who are in the proposed bargaining unit along with the following information, to the extent Brown has such information: department, degree program, date of first enrollment as a student, field of study, job titles, personal mailing address, personal phone numbers, and personal email addresses. With respect to all information provided under this agreement, the Union agrees not to use this information for any purpose other than internal Union administration and communication. In accordance with Brown's obligations and responsibilities under the Family Educational Rights and Privacy Act ("FERPA") and accommodate student privacy concerns, this information will be provided to the union in Excel format no later than 15 calendar days from the latter of the following: (1) an arbitrator's subpoena being enforced by any court of competent jurisdiction located

within the County of Providence, State of Rhode Island ordering the University to provide the above-described information to the Union; and (2) notice, which has been vetted and approved by the University (such approval shall not be unreasonably withheld and will be expeditiously processed), being given to all affected students whose information will be released. The parties stipulate that the Union may seek the arbitrator's subpoena for the above-described information any time after the execution of this agreement.

### **3. Election Procedures**

- A. **Election.** The question of whether a majority of Graduate Assistants in the Unit set forth in Paragraph (C) below wish to be represented by the Union shall be determined in a secret ballot election conducted by the American Arbitration Association ("AAA"). In order to trigger the election procedure, included herein, the Union shall make a showing to the AAA of valid, signed (paper or electronic (pursuant to the NLRB General Counsel's guidance)) authorization cards from 30% of the proposed bargaining unit as defined in this Agreement. Brown may require the Arbitrator (named, *infra*) to review the cards to ensure their validity. To be valid, an authorization card must be signed within one year of the date such card is submitted to the AAA and must be signed by currently enrolled students who are in the proposed bargaining unit as defined by this agreement. The election will be conducted by manual ballot consistent with the NLRB rules and regulations.

If a majority (50% + 1) of the Graduate Assistants voting in an election conducted pursuant to the terms of this Agreement votes in favor of representation by the Union, Brown immediately shall grant recognition to the Union as the exclusive collective bargaining representative of the unit with all of the rights and obligations of a union certified by the NLRB to the extent consistent with this Agreement. A notice of Brown's recognition of the Union as the exclusive collective bargaining representative of the Graduate Assistants will be sent to Region 1 of the NLRB.

- B. **Eligible Voters.** Eligible voters will be all Brown Ph.D. and Masters students enrolled in the Graduate School who are engaged in research or instructional services as duly

appointed Teaching Assistants, Research Assistants and Proctors (collectively "Graduate Assistants") during the semester in which the election is held or who performed such services in one of the two semesters immediately preceding the semester in which the election takes place.

- C. **Scope of the Bargaining Unit.** All Brown Ph.D. and Masters students enrolled in the Graduate School who are engaged in research or instructional services as duly appointed "Graduate Assistants".
- D. **Timing of Election.** The Union shall provide the University with 10 calendar days' notice of its intent to file an election petition. Upon written request of the Union and presentation of the requisite authorization cards, an election shall be conducted by the AAA. The election shall take place no later than 15 business days after an election petition is filed by the Union. However, the parties agree that notwithstanding the above, in order to maximize voter turnout, no election will be scheduled during any official University break, summer term, reading week, or finals period.
- E. **List of Eligible Voters.** Brown will provide the Union with the voter eligibility list in Excel format no later than 10 calendar days after a FERPA notice, which has been vetted and approved by the Union (such approval shall not be unreasonably withheld and will be expeditiously processed), has been given to all affected students whose information is to be released. The University will act expeditiously to complete this process. The FERPA notice will be provided to students within 3 business days following receipt of an arbitrator's subpoena directing the University to provide described information to the Union. In accordance with Brown's obligations and responsibilities under the Family Educational Rights and Protection Act, students may seek to have personally identifiable information that would have been provided as part of the Voter Eligibility List kept private by seeking a protective action with the Arbitrator. All parties will act expeditiously to complete this process. The Parties stipulate that the Union may seek an arbitrator's subpoena for the above described information any time after the Union files

its election petition consistent with this Agreement. All parties will act expeditiously to complete this process.

The Voter Eligibility list will contain an updated list of all graduate students who are in the group described in Paragraph (B) above, their department, job title, degree program, start date, and field of study and to the extent that Brown has the information, their personal mailing addresses, personal phones numbers, and personal email addresses.

F. **Disputes.** If there is any dispute regarding the eligibility of any individual voting in an election conducted pursuant to this Agreement, such dispute will be resolved by the arbitrator (as provided, *infra*) in accordance with the terms of this Agreement. The arbitrator will take into consideration the standards applied by the NLRB under the NLRA to the extent consistent with this Agreement, with the understanding that the individuals holding the positions described in Paragraph (C) above, are deemed eligible to vote. If any dispute arises as to the results of an election conducted pursuant to the Agreement, such dispute will be resolved by the arbitrator, based on the terms of this Agreement. The arbitrator will follow standards applied by the NLRB under the NLRA to the extent that those standards are otherwise consistent with this Agreement. Any hearing to resolve disputes under this Section shall be held within 10 calendar days of notice by one of the parties to the other, and will be limited to one day in duration, with the time evenly divided between the parties. A decision, order and certification of election results shall issue within 14 calendar days of the hearing.

4. **Open Discussion and Access to Information.** The parties agree that, in the interest of having a well-informed electorate and to facilitate open dialogue:

A. The parties agree that the University may host forums to discuss publicly the issues involved in the unionization campaign. Representatives from Brown Administration, SUGSE/AFT and the Graduate Student Council (GSC) may be invited to participate. The forums will take place no sooner than 2 days after the Union files its petition and no later than 2 days before the date the election is held. Senior University officers

may speak on the issues with Graduate Students at these forums consistent with the NLRA and the terms of this Agreement.

- B. The parties will jointly release the letter attached to this agreement as Appendix 1. The letter will be featured in the regular Graduate School newsletter, distributed to all graduate programs for posting and sent separately via email by the University to all graduate students at an agreed upon appropriate time.
- C. The parties shall create a Union-Management Committee (UMC) consisting of a minimum of 3 members from Brown and 3 members from the Union, respectively to discuss any and all issues under, pursuant to, or related to in any way, this Agreement and to work on any other issues of mutual interest. Each party shall choose its committee members. Meetings shall be convened by the University. The committee may schedule a regular monthly meeting and may establish additional sessions if needed.
- D. Brown will not restrict any of its students or employees from wearing shirts, buttons, and other items expressing their position regarding graduate student unionization consistent with the NLRA, University policies, and this Agreement. The Union agrees that none of its conduct and communications will violate its no strike pledge, infra, or deface, destroy or damage Brown or personal property, including without limitation removing or defacing any posted, flyers, etc., expressing viewpoints other than those in favor of unionization.

## **PART II**

### **5. Bargaining Obligation**

- A. If the Union is determined to be the exclusive representative of the Graduate Assistants as a result of the election procedures described above, Brown and the

Union will commence negotiations in good faith over the terms of the collective bargaining agreement.

- B. The Union recognizes that the University's bargaining obligation is limited by statute to "wages, hours and terms and conditions of employment" of the Graduate Assistants. The Union recognizes that certain issues involving the academic mission of the University and academic freedom lie outside the scope of bargaining as defined by the NLRA. These issues may include, but are not necessarily limited to (1) conditions and requirements for admission of students to graduate programs; (2) matters that pertain to the amount of any tuition, fees, awards or student benefits (provided that they are not terms and conditions of employment); (3) matters that pertain to the merits, necessity, existence, or organizational structure of any academic unit, department, field, program, or course established, eliminated or modified by the University; (4) decisions relating to student financial aid awards and tuition; (5) decisions relating to the number of graduate assistantships and the criteria for the granting of appointments; (6) decisions on student's academic standing or progress (including withdrawal for academic reasons); (7) matters that pertain to degree, academic and certificate requirements; (8) matters pertaining to course assignment, content, teaching methods and supervision of courses, curricula and research programs. Notwithstanding the above, the parties will bargain in good faith over the contents of a management rights clause for their collective bargaining agreement containing examples of management prerogatives that are outside the scope of bargaining. Finally, nothing in this section should be read as limiting the Union's ability to request bargaining over the effects of including such management prerogatives into the parties' collective bargaining agreement.
- C. To the degree the parties have difficulty in expeditiously reaching an agreed upon first collective bargaining agreement, they may utilize a mutually agreed upon mediator to facilitate discussion and agreement. The mediator shall have the ability to sit in negotiating sessions, speak separately with each party and utilize his/her best efforts to encourage the parties to compromise and reach agreement. However, no

“interest arbitration” of any kind shall be permitted. “Interest arbitration” is a final and binding process whereby the issues not resolved in contract negotiations are presented to an impartial arbitrator for the arbitrator to decide what the resolution shall be.

6. **Enforcement.** Neither party will initiate any proceeding with the NLRB (or in any other forum other than as specified by this Agreement), including without limitation, on any and all issues concerning provisions of this Agreement, the decision by the Graduate Assistants whether to be represented by the Union, or the conduct of the parties in connection with the decision of the Graduate Assistants whether to be represented by the Union. Nothing in this Agreement shall prevent either party from the right to initiate proceedings with the NLRB to resolve issues that occur after the bargaining obligation attaches. As specified below, mediation and arbitration are the sole and exclusive dispute resolution mechanisms for any dispute under, pursuant to, or related in any way to this Agreement.

- A. **Mediation.** Before any dispute under, pursuant to, or related in any way to this Agreement is arbitrated, the parties shall mediate such dispute before Howard Edelman who will act as a neutral mediator. Carol Wittenberg shall serve as the alternate mediator if Howard Edelman cannot timely serve. The mediator will adhere to the Model Standards of Conduct for Mediators jointly issued by the AAA, American Bar Association, and Association for conflict Resolution. Moreover, the parties agree that the cost of mediation shall be borne equally by the parties, except that each party shall bear sole responsibility for payment of its attorney’s fees.

- B. **Arbitration.** If any dispute between the parties is not resolved through mediation, a hearing will be conducted before an Arbitrator within 48 hours of notice by the party alleging a violation to the other party and to the arbitrator. The parties agree to make themselves available during the evenings and on weekends in order to comply with this time limit. Any hearing conducted under this provision will be limited to four hours (except if both parties agree the matter requires more time or the arbitrator rules



otherwise) with the time divided evenly between the two parties. The arbitrator will have the authority to issue any order deemed necessary to ensure compliance with this Agreement, including bench decisions, temporary restraining orders, or preliminary injunctions. If either party believes that a violation of this Agreement is egregious or repetitive that party can file directly for arbitration, skipping the mediation step. Notwithstanding the above, the Arbitrator shall not have the authority to engage in interest arbitration under this Agreement or any subsequent collective bargaining agreement. The Arbitrator shall follow, as applicable, the Labor Arbitration Rules of the AAA. Moreover, with respect to any Arbitration under this Agreement, all arbitration costs shall be shared equally between the parties, except all parties' attorney's fees. The parties specifically empower the arbitrator to resolve disputes concerning Brown's obligations under this Agreement to provide information to the Union, including without limitation, making determinations related to conflict of laws including privacy laws such as FERPA.

C. **Panel of Arbitrators.** Arbitrator Martin Scheinman shall be the principal arbitrator under this agreement. However, if Martin Scheinman is unable to resolve issues pursuant to this Agreement, then Arbitrator John Sands shall serve in his place and shall have full authority to resolve such issues. Additionally, arbitrators may be added upon mutual agreement of the parties.

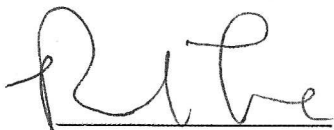
D. **Orders and Decisions.** All orders and decisions issued by an arbitrator pursuant to this agreement shall be final and binding on the parties. Upon application of a party to this Agreement, the United States District Court for the District of Rhode Island shall, in accordance with law, enforce an order of the arbitrator, including temporary restraining orders and preliminary injunctions. The parties hereby consent to the entry of an order of an arbitrator as the judgment or order of the court, without findings of fact or conclusions of law. In the event of an unsuccessful challenge to an arbitration award issued pursuant to this Agreement, the party who challenged the award or who unsuccessfully objects to the entry of an award of the arbitrator as an order of the court shall pay the reasonable attorneys' fees and costs of the other party.

7. **Notice to Parties.** Any notice to be served on the Employer under this Agreement will be sent via U.S. Mail and email to Paul S Mancini, Director of Labor and Employee Relations (Box 1879, Providence, RI 02912-1879, [paul\\_mancini@brown.edu](mailto:paul_mancini@brown.edu)) with a copy to Paul Salvatore (11 Times Square, New York, NY 10036; [psalvatore@proskauer.com](mailto:psalvatore@proskauer.com)). Any notice to be served on the Union under this Agreement will be emailed and sent via U.S. Mail to Katie Dalby and Channing Cooper, American Federation of Teachers (555 New Jersey Ave. NW, Washington, DC 20001; [ccooper@aft.org](mailto:ccooper@aft.org)).
8. **Strike and Lockout.** The Union will not engage in an “Authorized Strike” (i.e., any strike, work stoppage, slowdown, sympathy strike, or other interference with the University’s operations where the Union authorizes such action) while this Agreement is in effect. Additionally, Brown agrees not to lockout Graduate Assistants while this Agreement is in effect. Should an unauthorized strike occur, the parties may immediately utilize arbitration to attempt to resolve the dispute.
9. **Duration.** This Agreement shall remain in effect from the date it is fully executed until April 15, 2019, or expire when the Union is recognized as the exclusive collective bargaining representative through the election process referenced in Section 3 of this Agreement, whichever comes first. However, Section 5 [Bargaining Obligation] herein will survive the termination of this Agreement and any disputes concerning the parties’ obligations under Section 5 shall continue to be resolved through arbitration. Section 5 shall expire upon ratification of the parties’ first collective bargaining agreement. Section 10 of this agreement shall also survive the termination of the Agreement. Additionally, if for any reason SUGSE should disaffiliate with the AFT, this Agreement shall remain in effect consistent with the terms of this paragraph.
10. Notwithstanding any language in this Agreement:
- a. In the event the NLRB or a court of competent jurisdiction overrules *Columbia University*, 364 NLRB No. 90 (2016), or finds that graduate students holding

teaching and/or research appointments are not employees under the NLRA before the University and Union reach a collective bargaining agreement, this Agreement will immediately terminate and shall have no further force or effect and the University will have no further obligations to the Union. However, the parties agree that any collective bargaining agreement reached between the parties will be honored for the duration of the Agreement.

11. **Ratification**. This Agreement shall not become effective unless and until it is both executed by authorized representatives of the parties and then ratified by both parties' respective ratification bodies.

For Brown University

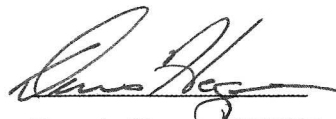


Richard M. Locke  
Provost

6-21-18

Date

For Stand UP for Graduate Student  
Employees and AFT



Dennis Hogan, SUGSE

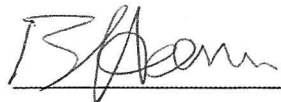
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Date



Anna Wentz, SUGSE

Date



Babak Hemmatian, SUGSE

6/21/18

Date



Richelle Fiore, AFT

6/21/18

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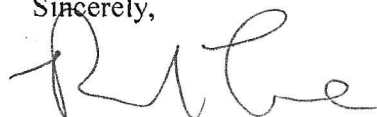
## APPENDIX 1

Members of the Brown Community,

Brown University and Stand Up for Graduate Student Employees (SUGSE) have entered into a pre-election agreement to govern a possible union representation election among eligible graduate students at Brown University, should such an election take place.

This agreement creates formal election procedures, voter eligibility guidelines, and a dispute resolution mechanism to help guide an election. The agreement reinforces that if an election is held at Brown, Brown University and SUGSE will work together to ensure that it is free and fair and upholds the right of graduate students who work as teaching assistants, research assistants and proctors to decide whether or not they want a labor union to represent their interests on employment issues.

Sincerely,



Richard M. Locke  
Provost  
Brown University



Dennis Hogan  
SUGSE



Babak Hemmatian,  
SUGSE

Marley-Vincent Lindsey  
SUGSE

Katherine Thompson  
SUGSE



Anna Wentz  
SUGSE