ARTICLE 9 FILING FORM

Date Filed: November 14, 2023

_____X____ Category 1

_______Category 2

______Categories 1 and 2

Mediation Requested ___X__ Yes ______No

Step One Meeting Requested ___X__ Yes ______No

This grievance is filed by:

__________Individual Bargaining Unit Member(s)

_____X_____ The AAUP-AFT

__________Jointly by the AAUP-AFT and the Unit Member(s)

Grievant’s Name(s):

Address for Mail: c/o AAUP-AFT

Staff Representative: Jillian Bogle
TO: Paula Mercado Hak, Assistant Vice President for University Labor Relations  
FROM: Todd Wolfson, President, Rutgers AAUP-AFT  
DATE: November 14, 2023  
RE: Article 9, Category One Grievance filed by the Rutgers AAUP-AFT  

We hereby file this Category One Article 9 Grievance on behalf of the Rutgers AAUP-AFT and on behalf of all graduate workers who were performing the duties of GAs and TAs and misclassified as fellows during the 2022-2023 academic year and who are currently performing the duties of GAs and TAs during the current academic year.

The misclassification of graduate workers as fellows is a Category One Violation of Article 12.A of the parties’ collective negotiations agreement, which provides, in relevant part:

Consistent with University Policy 60.5.3, as amended, graduate students paid a salary to render service to the University, primarily in teaching, are employed as Teaching Assistants (TAs) and graduate students, paid a salary to render service to the University, primarily in research, either directly, or under a grant or contract with other agencies, are employed as Graduate Assistants (GAs). Graduate students, including those funded through fellowships, who are performing the duties of a TA or GA shall be classified as a TA or GA through the academic appointment process.

Introduction:

This grievance focuses on graduate workers who were classified as fellows during the 2022-2023 academic year, and who are currently classified as fellows during the 2023-2024 academic year, but who were or are rendering a service to the University primarily in research, either directly, or under a grant or contract with other agencies, or who are rendering a service to the University primarily in teaching.

The above contract language requires that all graduate students, “including those funded through fellowship,” must “be classified as a TA or GA” if they “are performing the duties of a TA or GA.”

The AAUP-AFT maintains that during the 2022-2023 academic year, dozens, if not hundreds of graduate workers, who were performing the duties of GAs, and in certain more limited instances, performing the duties of TAs, were improperly classified as fellows. Further, during this current academic year, dozens, and perhaps hundreds, of graduate workers performing the duties of GAs and TAs are misclassified as fellows.

As we discuss below and will present at mediation and during arbitration, often a graduate worker is classified as a fellow one semester and a GA the next semester, notwithstanding no meaningful change in their duties. The consequences of being misclassified as a fellow, rather than as a GA or TA are several fold. First, the net compensation received by fellows is often less
than the net compensation received by GAs and TAs. Second, fellows have access to healthcare that is inferior to the healthcare to which GAs and TAs have access through the State Health Benefits Program. Third, fellows are unrepresented and do not have access to the other contractual benefits and rights enjoyed GAs and TAs.

As a remedy, the Union seeks all graduate workers misclassified as fellows to be made whole with respect to lost compensation and any out-of-pocket medical expenses they incurred as a result of being in an inferior health plan. In addition, the Union seeks an award directing the University to cease misclassifying graduate workers, who are performing GA and TA duties, as fellows.

Discussion:

The AAUP-AFT is the collective bargaining representative for TAs and GAs at Rutgers University. Fellows are unrepresented. At Rutgers there are presently approximately 1,165 TAs, 670 GAs, and 1,258 graduate fellows. GAs are PhD students employed by Rutgers to render a service to the University, primarily in the area of research. TAs are PhD students employed by Rutgers to render a service to the University, primarily in the area of teaching. TAs and GAs average approximately 15 hours a week in performing their assigned duties. In addition, they take courses and work on their dissertations to make academic progress toward their doctoral degrees.

TAs and GAs are University employees and receive appointments by Rutgers. Their compensation is based on the salary and benefit provisions of the Collective Bargaining Agreement (“CBA”). In accordance with the parties’ CBA, they can enroll in the State Health Benefits Program. The CBA between Rutgers University and the AAUP-AFT establishes for TAs/GAs minimum salaries, annual wage increases, job protections, access to employee health benefits, and standardized appointment letters.

Fellows receive funding from various sources, which vary and include: departmental funds, dissertation funds, graduate school funds, program/project funds, external grants, and PI grants. Fellows are not treated as University employees and thus do not otherwise have access to the State Health Benefits Program. In addition, their compensation through these various funding sources is often less than what GAs and TAs are entitled to under the CBA. Because Rutgers does not treat them as employees, they are excluded from the contractual protections and other benefits enjoyed by GAs/TAs.

Despite the disparity in compensation and benefits, many fellows perform substantially similar work to that of GAs/TAs, and in many instances, graduate workers have rotated through these various titles (GA, TA, fellow) with little to no difference in the duties they perform and the services they render to the University.

On or about April 28, 2023, the University and the Union reached agreement on an MOA for a successor CBA. After more than a year of negotiations, on April 10, 2023, AAUP-AFT members went on strike. From April 10 to April 14, the Union and the University met in the Statehouse, under the auspices of the Governor and his Chief of Staff, in an effort to secure an agreement and
settle the strike. On April 14, 2023, the parties entered into a “Framework for an Agreement” (“Framework”), that suspended the strike and resulted in two additional weeks of bargaining to resolve dozens of open issues. One critical issue that was resolved during the strike and that was part of the Framework is the Article 12 language at issue in this grievance.

However, despite the agreement reached at bargaining many graduate workers, who perform substantially the same duties as GAs and TAs, are improperly classified as fellows.

In their capacity as GAs, doctoral students often work under the direction of a Principal Investigator (PI), who is in charge of overseeing a grant-funded research project. The duties of a GA performed under the direction of a PI or other faculty member are wide-ranging and may include: working in a lab, handling and managing data for research projects, handling lab equipment, presenting research and scholarship internally and at other academic institutions, and contributing to/supporting the research and scholarship of PIs and/or other faculty. The work GAs perform under the direction of a PI may also be used by them in researching and writing their dissertation. While they are expected to average approximately 15 hours a week for which they are compensated by the University, the remainder of their time is devoted to making academic progress toward their doctoral degree, including coursework and performing the research, scholarship and writing required for their dissertation.

Dozens, and possibly hundreds, of fellows also work under the direction of a PI or other faculty member, performing substantially the same duties as GAs. As is reflected in the examples referenced below, often a doctoral student will be compensated as a GA one semester and a fellow the next semester, without any change in their duties. The determining factor in whether they are classified as a GA or a fellow is the source of funding, rather than the nature of their duties. A PI’s department or grant may have funds that have been earmarked for a GA position, or in other instances the funds are denominated fellowship funds. In both cases the PI and the department are attempting to provide financial support to the doctoral student as the student makes academic progress toward their degree and at the same time renders services in the form of research to the University under the direction of a PI, dissertation advisor or other faculty member.

While less frequently, certain doctoral students, who teach, prepare curricula and perform other TA related duties are compensated as fellows.

The misclassification of graduate workers who perform GA duties results, in part, from a lack of effective centralized oversight by the University to ensure that doctoral students who are rendering research services to the University under the direction of a PI or other faculty member are paid as GAs, rather than as fellows. On a smaller scale, that is also true with respect to doctoral students performing TA duties. Consequently, the misclassification of graduate workers as fellows is widespread.
Below are a handful of examples of graduate workers who have been misclassified as fellows, either during the 2022-2023 academic year or during the current 2023-2024 academic year.

**NARRATIVES REDACTED**

**Remedy:**

1. Graduate workers misclassified as fellows during the 2022-2023 academic year shall be made whole with respect to the compensation they would have received had they been classified as GAs or TAs and shall be reimbursed for out-of-pocket medical costs they incurred that exceeded costs they would have incurred had they been enrolled in the State Health Benefits Program.
2. Graduate workers misclassified as fellows during the 2023-2024 academic year will be reclassified as either GAs or TAs and receive compensation and benefits in accordance with the parties’ collective negotiations agreement. In addition, they will be compensated for lost compensation and for any out-of-pocket medical costs they incurred because they were not enrolled in the SHBP.
3. The University will cease misclassifying graduate workers as fellows who are performing the duties of GAs or TAs.

**Meetings Requested:**

Mediation is requested. A step one response is requested.

**Information Requested:**

1. A list of all graduate students funded through doctoral fellowships. This list shall identify whether the fellowship is internally or externally funded and the amount and duration of funding.
2. Copies of appointment letters for all doctoral fellowships in the Spring 2023 and Fall 2023 semesters.