



January 20, 2022

Respected Members of the Board of Trustees, Chancellor Castro, and Dr. Toombs,

We write to you on behalf of dozens of our members who are faculty in the Cal State University system to convey urgent concerns about the addition of “caste” as a specific category to Article 16.1 (Non-Discrimination) in the collective bargaining agreement for Cal State University (CSU) faculty. It is imperative that this addition be removed prior to approving the agreement.

While we share both CSU and the California Faculty Association’s (CFA) admirable goal of redressing different forms of discrimination, the addition of caste is a striking departure from the well-established practice of facially neutral policies that apply broadly and generally to all employees regardless of background. This new category will apply to, make vulnerable, and implicate only faculty of Indian and South Asian descent given the fact that “caste” is singularly associated and falsely equated with Hindus, Indians and to a lesser extent, South Asians. Moreover, they have added a class category that is widely misunderstood, has no universally accepted definition, and is neither apparent nor inherent.

Both state and federal law as well CSU policy already prohibit discrimination on the basis of national origin, ethnicity, and ancestry, all of which can extend to other social identities such as caste, tribe, clan, sect, etc. Yet CFA and CSU leadership have negotiated a policy change, and that too in the absence of any evidence of complaints or failure of current policy, which will single out and target all Hindu, Indian, and South Asian faculty and staff on the basis of their national origin, ethnicity, ancestry, and religion. No other categories were negotiated or added that similarly target and single out any other ethnic group. That CFA leadership could cite not a single complaint of caste-based discrimination having been filed at any CSU campus to concerned faculty is reflected by the broader realities of Indian Americans -- that discrimination on the basis of ethnicity and color is quite common, but discrimination on the basis of caste is exceedingly rare (See Carnegie Endowment’s 2020 [Social Realities of Indian Americans: Results From the 2020 Indian American Attitudes Survey](#).) The addition of “caste” as such is arbitrary and unnecessary, and denies Hindu, Indian, and South Asian faculty equal protection and due process.

CFA and CSU administration have broad authority and wide discretion to negotiate the terms of faculty contracts, but neither have a right to restrict the rights of faculty which are guaranteed by



state and federal law. A clause that will apply to only particular faculty on the basis of their national origin, ethnicity, ancestry, and religion, is by definition not only a restriction, but denial of rights. Moreover, mutually agreeing to discriminate in a collective bargaining agreement, which the creation of a new suspect class does, is an illegal negotiation topic under federal law. Simply put, whether knowingly or unknowingly, CFA and CSU have mutually agreed to an ethnically antagonistic policy which will treat disparately over 600 faculty of Indian and South Asian descent.

Rest assured, we are working with concerned faculty to file Freedom of Information and State Public Records Act requests to further investigate the decision-making process for the addition of “caste” to Article 16.1, including but not limited to the original source of the policy proposal, public notices and discussions, evidence gathered, and reviews conducted by CFA and CSU legal counsel prior to finalizing and ratifying the agreement. In addition, we are assisting concerned faculty in exploring all legal avenues and representation to help them protect their state and federal rights, as well as contractual rights with CSU.

Hindu American Foundation (HAF) is a national nonprofit advocacy and civil rights organization with constituents across the state of California, including Cal State University faculty, staff, and students.

Should you or the CSU Office of General Counsel have any questions or wish to better understand the legal and human resource liabilities stemming from this ill-conceived policy change, we can be reached at legal@hinduamerican.org.

Best,

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Executive Director/Cofounder

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National Leadership Council/Cofounder



- Public has a right to view the negotiations
- Dated versions of the sessions discussing clause

- Freedom of Information
 - <https://www.calstate.edu/csu-system/faculty-staff/labor-and-employee-relations/Pages/bargaining-updates.aspx>
 - Look for deliberation - Article 16.1 (Non-Discrimination)
- Seek injunction from discriminatory clause/article from being implemented
 - Do not have a right to restrict rights by private contract. CFA and CSU have created a protected category that is not required by state or federal law, and in fact, creates a suspect class on the basis of national origin, ethnicity, and ancestry.
- Title VII
- Sec. 1981, 1983, 1985 - Constitutional claim creation by the state of a new suspect category
- Defense: cases that cover disparate impact on forms of identification that tie you to a national origin, etc.
 - Dreadlocks - African Americans
 - Piercings - some religious background
 - Janoi