TO: Graduate Faculty, Directors of Graduate Studies, Graduate Field Assistants, Department Chairs, Directors, Deans

FROM: Barbara A. Knuth, Senior Vice Provost and Dean

RE: Graduate Student Interest in a Union and Collective Bargaining

DATE: April 12, 2016

I am writing to provide an update regarding the interest of some graduate students at Cornell to organize as a union, and to provide general guidance about faculty involvement in discussions with students about this topic. A group of graduate students has formed Cornell Graduate Students United (CGSU) which has affiliated with the American Federation of Teachers (AFT) and New York State United Teachers (NYSUT) unions.

Whether graduate students at private universities can legally form a union is a question that is currently before the National Labor Relations Board (NLRB) in Washington D.C. Specifically, Columbia University and the New School are litigating the question of whether graduate students at private colleges are “employees” as defined by the National Labor Relations Act (NLRA). Current law based on the NLRB’s 2004 decision in Brown University states that graduate student assistants at private colleges and universities are not employees under the NLRA and therefore do not have the right to union representation.

As you may know, Cornell University recently joined an amici brief in the Columbia University case, signed with all our Ivy+ peers, where the amici argued that existing NLRB law should not be overturned and graduate students should not be considered employees because their primary relationship with the university is educational. The brief expresses an opinion on a significant issue affecting higher education. Cornell’s position is not anti-union; instead, Cornell’s position is that existing NLRB law finding that graduate students at private universities are not employees accurately reflects existing realities in higher education.

As background, in 2002, (prior to Brown) when graduate students were considered employees under the NLRA, notwithstanding the fact that other schools (including Brown University) legally contested graduate student elections, Cornell came to an agreement with the graduate student union (at that time, Cornell Association of Student Employees – CASE, affiliated with UAW). That agreement called for holding an election for a proposed bargaining unit that included almost all graduate assistants, teaching assistants, graduate research assistants, and research assistants who were admitted through the Graduate School and received both an assistantship and a tuition waiver. Another student group formed and spoke against the union. An election was held in October, 2002, with 90% of those eligible voting, and graduate students voted 1351 to 580 against unionizing.
Cornell leadership believes that if the NLRB overrules Brown (which experts believe is likely), and some Cornell graduate students are interested in being represented by a union, then the decision about union representation of such students should be decided by the graduate students through a legally sanctioned election. In such an election, a majority of those who vote will determine the outcome.

Deciding how to vote in a union election is a personal decision. Regardless of whether the graduate students ultimately become unionized through a sanctioned election or not, we want to maintain as positive of a relationship with our students as possible. For these reasons, in addition to the legal restrictions discussed below about what university leadership and faculty can and cannot say to graduate students about the union, we should all take care to make sure our comments enable graduate students to feel that they are being treated with dignity and respect. All graduate students should have the ability to hear all points of view as they consider and formulate their own opinions regarding graduate student unionization.

General Guidance

As graduate students consider the possibility of voting on unionization in the future, they may ask you, as a faculty member, to share your views on unionization. The general guidance below is intended to help you frame your involvement in these discussions. If you have specific questions or concerns, please contact me. You should feel free to offer any facts, opinions, or examples about unionizing. However, please make it clear that you are expressing your own personal views on the subject and not speaking on behalf of the University.

While University leadership and agents of the University (including faculty) should feel free to respond to any questions or statements graduate students make to them and/or discuss the issues, such communications must comply with the following guidelines:

- **Do not threaten, interrogate or coerce** – i.e., Do not indicate to a graduate student that forming a union (or failing to do so) will result in any adverse treatment of them individually or to them as a group. Do not indicate, for example, that joining a union (or failing to do so) may hurt an individual’s job search, research, future, or success at Cornell. Do not attempt to interrogate (ask questions about an individual’s stance on unionizing) or coerce a graduate student into sharing his/her personal opinion on the subject. You can listen to the graduate students if they voluntarily express their personal views or other information.

- **Do not promise** -- i.e., Do not promise a graduate student (or group of students) anything of value as inducement to get them to join or not to join a union. A union representative can make such promises; an agent of the university may not. You cannot promise anything on behalf of the union or the university.

- **Do not undertake surveillance** – Avoid the appearance of or engaging in actual surveillance of students participating in protected activity (such as students attending a
union meeting or a group of students discussing the merits of whether or not to unionize).

Conversations should occur in a neutral area such as a conference room, break room, or meeting room. If a student initiates the conversation while in your office, you may have a discussion there.

Students may ask you to respond to issues they have heard from others. They may want you to provide factual information regarding their current stipends, benefits or other matters. If you have the facts, feel free to share them. If you hear information that you know is inaccurate, you can and should correct it, just as you would in response to any other inaccurate information. If you do not know the answer to a question, I recommend that you either refer the matter to someone who has the information or obtain the information yourself and then respond to the question.

If students ask you for your predictions on what a potential collective bargaining agreement might contain, please indicate that those negotiations would not begin until after a representation election occurs in favor of unionization, and you are not privy to bargaining agreement discussions.

Please feel free to refer questions to the Graduate School or to contact us to help you find the information you need.

Thank you for your assistance.