



**Date:** March 3, 2017

**Memo to:** Katherine Fleming, Provost

**From:** Fred Carl  
Chairperson, C-Faculty Senators Council  
A/Y 2016-2017

**Subject:** C-Faculty Senators Council Review: NYU Shanghai Guidelines for C-Faculty

The C-Faculty Senators Council submits the attached recommendations regarding the NYU Shanghai Guidelines on the Full-Time Continuing Contract Faculty Review Process for Reappointment and Promotion, as approved at the March 2, 2017 Council meeting.

**cc:** Joanna Waley-Cohen, Provost NYU Shanghai  
Daniel Magida, Associate General Counsel  
Carol Morrow, Vice Provost  
Peter Gonzalez, Assistant Provost for Academic Appointments

*C-FSC Steering Committee Members:*

Mary Killilea, C-FSC Vice Chairperson  
Joseph Borowiec  
John Halpin  
Larry Slater  
Susan Stehlik  
Patrick Ying  
Brian Mooney, C-FSC Personnel Policies & Contract Issues Committee Chair

## **Recommendations of the C-FSC in regard to: Policy for the Review, Reappointment, and Promotion of NYU Shanghai Continuing Contract Faculty**

### **Background**

The Provost of NYU Shanghai, Joanna Waley-Cohen, forwarded to the (former) NYU Provost, David W. McLaughlin, the NYU Shanghai Guidelines on the Full-Time Continuing Contract Faculty Review Process for Reappointment and Promotion. That document had the approval of NYU Shanghai leadership (Provost Waley-Cohen, Vice Chancellor Jeff Lehman) as well as the NYU Shanghai C-Faculty, who approved a substantially similar version in May 2016. It was stated that the document was drafted in formal and informal consultations with the C-faculty, including an October 2015 open meeting for all C-Faculty, and ongoing meetings and dialogue with a C-Faculty committee established for this purpose.

As is the case with such policies, NYU Shanghai worked with the Office of General Counsel and the NYU Provost's office to edit the document to ensure consistency with University Guidelines for Full-Time Non-Tenure Track/Contract Faculty Appointments, issued June 12, 2014, revised July 1, 2016. As part of the process of finalizing the policy, Provost McLaughlin invited the T-FSC and the C-FSC to provide comments from a University-wide perspective

With respect to NYU Shanghai, these additional considerations are relevant: While the University Guidelines do not apply to NYU Shanghai, this document appropriately embraces the spirit and values reflected therein. Where the NYU Shanghai Guidelines take a different approach from the NYU Guidelines, it is to address the specific challenges that NYU Shanghai faces as a start-up organization in its initial years of operation to attract and retain top contract faculty. (Letter of August 29, 2016 from David McLaughlin to C-FSC and T-FSC Chairs)

The following document will enumerate various questions, comments and recommendations to the submitted Policy.

### **Major Substantive Recommendations**

1. Add a description of the faculty voting process for the approval of this document. If such a vote did not take place, we recommend the return of this document to NYU Shanghai for such a vote, with the possibility of making amendments. This is in keeping with The New York University Guidelines for Full-Time Continuing Contract Faculty, page 1, **Formulation of School Policies**, paragraph 2, sentence 1, which states that:

“In response to these guidelines and as appropriate thereafter, schools shall formulate or amend their policies in accordance with existing school governance processes and with the expectation that Continuing Contract Faculty shall participate in formulating and/or amending the school policy to the extent and manner in which school governance policies permit.”

Clarify specifically and explicitly the process of consultation with the Continuing Contract faculty.

We strongly recommend that any development of this policy follow the letter and the spirit contained in the above quote from the University Guidelines for Full-Time Continuing Contract Faculty, allowing the Continuing Contract faculty, acting, according to the school's governance structure (e.g., its Faculty Assembly or similar body, faculty meeting, etc.) an active, essential and meaningful role in forming and approving any new policy, which policy must necessarily include the grievance/appeal process.

Mechanisms for timely distribution to the faculty, faculty discussion, as well as the ability for faculty to present amendments, make recommendations to and vote on the Policy in a regularly scheduled faculty meeting following procedures outlined in the school's governance structure, should be included and stated explicitly.

2. Page 2, 1. Introduction, paragraph 3, sentence 4:  
Voting rights at NYU Shanghai are extended to Continuing Contract Faculty in accordance with the guiding principles and policies of the NYU Shanghai Faculty Council and the New York University Bylaws.

#### **Recommendation**

Describe the composition of this Council, and provide information concerning where its policies may be found (perhaps as a footnote). If Continuing Contract Faculty are not part of this Council, then we recommend that they be included. This is in keeping with the University Guidelines, page 3, **Titles and Terms of Employment**, *Participation in School Governance*, paragraph 2, which states that:

" Schools are expected to permit Continuing Contract Faculty to be represented within their respective school governance bodies, and to include Continuing Contract Faculty on appropriate committees, except for those involving tenure decisions or those otherwise set aside by University Bylaws as falling within the exclusive domain of tenured and tenure track faculty."

3. Page 2, 1. Introduction, paragraph 4, sentence 3:  
"Continuing Contract Faculty may be represented on NYU Shanghai governance bodies and included on appropriate committees, ..."

#### **Recommendation**

Clarify - does "be represented" constitute elected clinical faculty membership within these committees, and if so, will the representative have full voting rights? If Continuing Contract Faculty are not members of these committees, then we recommend that they be included. This is in keeping with the University Guidelines, page 3, **Titles and Terms of Employment**, *Participation in School Governance*, paragraph 2, which states that:

" Schools are expected to permit Continuing Contract Faculty to be represented within their respective school governance bodies, and to include Continuing Contract Faculty on appropriate committees, except for those involving tenure decisions or those otherwise set aside by University Bylaws as falling within the exclusive domain of tenured and tenure track faculty."

4. Page 2, 1. Introduction, paragraph 5, sentence 5:

"In cases where the incumbent is not selected for the tenure track position, ...:

**Recommendation**

Add that if the search committee does not select the faculty member for the tenure track position that the decision must be justified and the reasoning revealed to the candidate.

5. Page 3, 1. Introduction, paragraph 6, sentence 1:

Any amendment to these Guidelines must be in writing and must be approved by the Provost of NYU Shanghai, who will consult with the NYU Shanghai Faculty Council, and the Provost of NYU.

**Recommendation**

Add a mechanism for timely distribution of any amendments to the Policy to the Shanghai faculty, including Continuing Contract Faculty, and that allows for faculty discussion, as well as the ability for faculty to present amendments, make recommendations to and vote on the Policy in a regularly scheduled faculty meeting following procedures outlined in the school's governance structure.

6. Page 3, 2. Review Principles, paragraph 3, sentence 2:

"... formal assessments of teaching effectiveness (e.g. class observation), and student evaluation; ..."

**Recommendation**

Add other reasonable instruments of assessment. For example, the following factors might be considered: course materials (e.g., syllabi, lecture notes, assignments), course development and innovation, instructor development, collegial observations, self-presentation, samples of student writing, evidence of continuing influence upon students, examples of learning beyond the classroom, etc.

7. Page 3, 2. Review Principles, paragraph 4, sentence 1:

"Continuing Contract Faculty are expected to be fully engaged at NYU Shanghai to help build and strengthen the school, and ..."

**Recommendation**

Given that the phrase "to be fully engaged at NYU Shanghai" is subjective, the phrase should be removed from the Guidelines.

8. Page 3, 2. Review Principles, paragraph 5:

Continuing Contract Faculty are welcomed to contribute to NYU Shanghai's overall research portfolio and professionalism through research projects in

their field, professional development, publications, conference attendance, and related activities. While scholarship and practice in the arts or professional fields are highly valued, these are not required for reappointment or promotion, except as set forth in the faculty member's employment contract.

**Recommendation**

Given that scholarly and/or creative activity is welcomed and encouraged for reappointment and promotion, professional development funds and research leave or sabbatical should be provided to further support professional, scholarly, or creative work. A description of that eligibility, and the process governing it, should be added. Given that scholarly work is not required (unless specified as such in the individual's contract), professional development funds that support that faculty member's continued growth in teaching their field should be provided.

9. Page 3, 2. Review Principles, paragraph 6, sentence 2:

In certain limited circumstances, including but not limited to, at the faculty member's request or to address a specific academic need, Continuing Contract Faculty may be appointed for a period of one or two years.

**Recommendation**

Add "If a one-year contract is adopted, the Dean will provide a justification, similar to the hiring plan submitted annually to the NYU Provost, based on programmatic and academic considerations, to the faculty through the formal governance structure established at the school (the NYU Shanghai Faculty Council)."

10. Page 3, 2. Review Principles, paragraph 6, sentence 3:

Continuing Contract Faculty may be reappointed and, in the event they are, the reappointment will be governed by a new contract the length of which is to be determined by the relevant NYU Shanghai Dean or Program Director following consultation with the Provost of NYU Shanghai.

**Recommendation**

To prevent the establishment of a permanent group of continuing contract faculty on one-year appointments, add language allowing for a transition to an appointment of at least three years for faculty on one-year appointments who successfully complete a formal review, such as:

"Faculty members on continuous one-year appointments who successfully complete their formal review shall normally move to at least a three-year appointment."

11. Page 3, 2. Review Principles, paragraph 6, sentence 3:

Continuing Contract Faculty may be reappointed and, in the event they are, the reappointment will be governed by a new contract the length of which is to be determined by the relevant NYU Shanghai Dean or Program Director following consultation with the Provost of NYU Shanghai.

**Recommendation**

Introduce a policy to determine the contract length for an initial appointment at

a given rank and for reappointment upon promotion, rather than ad hoc decisions by the Dean or Director. Also add statements concerning the constancy of contract duration, such as:

"When promoted to a three-year contract (Assistant Clinical Professors, subsequent appointments shall normally be for at least three years.

When promoted to a five-year contract (Associate and (Full) Clinical Professors), subsequent appointments shall normally be for at least five years."

12. Page 4, 2. Review Principles, paragraph 10:

These Guidelines are intended to ensure the distinct excellence of NYU Shanghai's educational programs. A faculty member's eligibility to be considered for reappointment does not create a presumption in favor of reappointment, even if the faculty member has met or exceeded the expectations set out in the contract. Should NYU Shanghai elect to conduct a search for a new position, the faculty member in question may apply as a candidate in the new search. That faculty member may also request a review for purposes of career development, and such review will be conducted within a time framework agreed upon by the faculty member and the relevant NYU Shanghai Dean or Program Director.

**Recommendation**

Arbitrary replacement of a faculty member who has "met or exceeded the expectations set out in the contract" is not in keeping with the spirit of the University Guidelines. Those guidelines specify only that " ... the decision to reappoint or promote may be impacted by curricular and structural changes and improvements in academic programs." We recommend the removal of the paragraph in question because it violates the spirit of the University Guidelines and will decrease the stability of the affected programs.

13. Page 5, 2. Review Principles, paragraph 12, sentence 2:

In addition, NYU Shanghai may carry out formal performance assessments from time to time in the course of multi-year appointments that are longer than three years.

**Recommendation**

We recommend the removal of this sentence. The University Guidelines provide for performance assessments when appropriate. Arbitrary assessments violate the spirit of those Guidelines. No other school policy document reviewed by this committee has had such a provision.

14. Page 5, 3. Review Process for Reappointment, paragraph 2, subparagraph iii:

Demonstration of teaching effectiveness (e.g., faculty course evaluations, peer observations of teaching, formal assessments of teaching effectiveness, syllabi or URL, and other relevant documents).

**Recommendation**

We recommend the more complete list: course materials (e.g., syllabi, lecture

notes, assignments), course development and innovation, instructor development, collegial observations, self-presentation, samples of student writing, evidence of continuing influence upon students, examples of learning beyond the classroom, etc.

15. Page 5, 3. Review Process for Reappointment, paragraph 3, subparagraph i: The relevant NYU Shanghai Dean, in consultation with the Program Director (when applicable), appoints an ad-hoc faculty review committee (FRC), which consists of three or five faculty members from the ranks of both the tenured and contract faculty.

**Recommendation**

We recommend that the committee should be made up of elected, not appointed, members; additionally, the majority of committee should be made up of Continuing Contract faculty members.

16. Page 5, 3. Review Process for Reappointment, paragraph 3, subparagraph i: "The relevant NYU Shanghai Dean, in consultation with the Program Director (when applicable), appoints an ad-hoc faculty review committee (FRC), ...".

**Recommendation**

We recommend that the committee should be made up of elected, not appointed, members.

17. Page 5, 3. Review Process for Reappointment, paragraph 3, subparagraph i: "... an ad-hoc faculty review committee (FRC), which consists of three or five faculty members from the ranks of both the tenured and contract faculty."

**Recommendation**

We recommend that the majority of committee should be made up of Continuing Contract faculty members.

18. Page 6, 3. Review Process for Reappointment, paragraph 3, subparagraph iv: Insofar as is possible, at least one member of the committee must be an NYU Shanghai faculty member.

**Recommendation**

We again recommend that the majority of committee should be made up of Continuing Contract faculty members. If insufficient senior Continuing Contract Faculty are available at NYU Shanghai, then we recommend drawing senior Continuing Contract Faculty from across New York University's global network.

19. Page 6, 3. Review Process for Reappointment, paragraph 4: NYU Shanghai Dean/Program Director and Provost of NYU Shanghai

**Recommendation**

We recommend adding the following subparagraph:

iv. A majority vote of the Reappointment Committee and the Promotion Committee shall be required for a successful review for a recommendation for

reappointment or promotion, and that all votes of both Committees shall be by secret ballot.

20. Page 6, 3. Review Process for Reappointment, paragraph 4:  
NYU Shanghai Dean/Program Director and Provost of NYU Shanghai

**Recommendation**

We recommend adding the following subparagraph:

v. The review may be written by one or more member of the Review and Reappointment Committee, but all members of the committee should read the review before it is submitted to the Dean. The review should represent a collective judgment of the committee or, in the case of a divided opinion, a majority of the committee. If there is a division of opinion, the minority opinion should be appended to the majority review.

21. Page 6, 3. Review Process for Reappointment, paragraph 4:  
NYU Shanghai Dean/Program Director and Provost of NYU Shanghai

**Recommendation**

We recommend adding the following subparagraph:

vi. In the event that the Dean follows the recommendation of the committee to reappoint and/or for promotion, the summary letter to the faculty member with notification of intent to reappoint or for promotion should include the length of reappointment/appointment, and a signature block for the faculty member.

22. Page 6, 3. Review Process for Reappointment, paragraph 4:  
NYU Shanghai Dean/Program Director and Provost of NYU Shanghai

**Recommendation**

We recommend adding the following subparagraph:

vii. If the school Dean's decision is contrary on appointment, title, or length of contract to that of the Review and Reappointment Committee or the Promotion Committee or the divisional dean, the Dean will provide the committee and candidate with the reasons. The committee members will then have ten days in which to provide further information or counter-argument before the Dean's decision is finalized.

23. Page 6, 3. Review Process for Reappointment, paragraph 4:  
NYU Shanghai Dean/Program Director and Provost of NYU Shanghai

**Recommendation**

We recommend adding the following subparagraph:

viii. In all cases of an appeal to a negative decision related to reappointment or promotion by the Dean, the candidate will have access to the Review/Promotion Committee's full report, including its recommendation and any comments from the faculty, with the exception of letters designated as "confidential".

24. Page 6, 4. Review Process for Promotion, subparagraph v:

Promotion is granted by the Provost of NYU Shanghai on the recommendation of the relevant NYU Shanghai Dean or Program Director to candidates based on the following factors: distinguished professional accomplishments, an outstanding teaching record, and years served in previous institutions (if applicable).

**Recommendation**

We recommend adding to the list of factors, "exceptional service to the program, school, or university."

25. Page 6, 4. Review Process for Promotion:

**Recommendation**

We recommend the insertion of a new subparagraph following the existing subparagraph v, that "A negative decision on promotion by the Provost of NYU Shanghai or the NYU Shanghai Dean or Program Director will be explained to both the committee and the candidate."

26. Page 7, 5. Grievance Procedure, paragraph 2, sentence 2:

Within 15 business days of receipt of a grievance by the relevant NYU Shanghai Dean or Program Director, the faculty member will meet privately with the relevant NYU Shanghai Dean or Program Director to try to reach an informal resolution.

**Recommendation**

We recommend that a mutually agreed upon third person be present at an informal discussion between the faculty member and the relevant NYU Shanghai Dean or Program Director, rather than having them "meet privately".

27. Page 7, 5. Grievance Procedure, paragraph 3:

In the event that the grievance is not settled informally, the faculty member may appeal to the Provost of NYU Shanghai to convene the NYU Shanghai Grievance Committee, appointed in accordance with the NYU Shanghai Shared Governance Guidelines, within 15 business days of receipt by the Provost of NYU Shanghai of written notice of the faculty member's appeal. For grievances brought by a member of the Continuing Contract Faculty, the NYU Shanghai Grievance Committee will be expanded to include at least one senior member of the Continuing Contract Faculty, if a senior member of the Continuing Contract Faculty is not already on the faculty appointed Grievance Committee.

**Recommendation**

We recommend that the NYU Shanghai Grievance Committee appointees, including any Continuing Contract Faculty, be drawn from a pool of elected individuals. This is in keeping with the University Guidelines, page 7, **Grievance Procedures**, *The School Grievance Process*, paragraph 3, which states that:

" Each school or faculty shall designate a faculty committee to hear grievances in order to advise the Dean. Unless otherwise authorized in the

school's policy and approved by the Provost, each school shall either establish a new standing faculty committee for Continuing Contract Faculty grievances, which will include senior Continuing Contract Faculty and Tenured/Tenure Track Faculty elected by the voting members of the faculty; or shall expand its existing standing grievance committee for Tenured/Tenure Track Faculty to include (elected) senior Continuing Contract Faculty who shall participate in hearing and evaluating only those grievances that are filed by Continuing Contract Faculty."

28. Page 7, 5. Grievance Procedure, paragraph 3:

In the event that the grievance is not settled informally, the faculty member may appeal to the Provost of NYU Shanghai to convene the NYU Shanghai Grievance Committee, appointed in accordance with the NYU Shanghai Shared Governance Guidelines, within 15 business days of receipt by the Provost of NYU Shanghai of written notice of the faculty member's appeal. For grievances brought by a member of the Continuing Contract Faculty, the NYU Shanghai Grievance Committee will be expanded to include at least one senior member of the Continuing Contract Faculty, if a senior member of the Continuing Contract Faculty is not already on the faculty appointed Grievance Committee.

**Recommendation**

We recommend that the NYU Shanghai Grievance Committee appointees, including any Continuing Contract Faculty, be drawn from a pool of elected individuals, as per the University Guidelines specification that: "Unless otherwise authorized in the school's policy and approved by the Provost, each school shall either establish a new standing faculty committee for Continuing Contract Faculty grievances, which will include senior Continuing Contract Faculty and Tenured/Tenure Track Faculty elected by the voting members of the faculty; or shall expand its existing standing grievance committee for Tenured/Tenure Track Faculty to include (elected) senior Continuing Contract Faculty who shall participate in hearing and evaluating only those grievances that are filed by Continuing Contract Faculty ."

Additionally, The New York University Guidelines for Full-Time Continuing Contract Faculty note numerous requirements and procedures for the school grievance process, including specifying who may grieve, the grounds for grievances based on non-reappointment, as well as grievances related to other issues, the process of requesting the convening by the dean of the grievance committee, and the accessibility of that grievance policy to the faculty.

The development of this grievance process should be undertaken with full participation by the Continuing Contract Faculty and submitted to the faculty for discussion and a vote by the faculty. The process of consideration must include the right to offer amendments, and the vote may occur during a regular faculty meeting or by electronic ballot, as the faculty governance body may determine.

## **Minor Substantive Recommendations**

1. Page 2, 1. Introduction, paragraph 5, sentence 5:  
"... he or she will remain in employment until the expiration of the existing contract and will be eligible for contract renewal or promotion following the review procedures set out by these Guidelines."

### **Recommendation**

If the incumbent has not been selected for the tenure track position, but "will be eligible for contract renewal", is this paragraph describing the conversion of one line, or the creation of a new line? If it is just one line, what will happen to the non-selected incumbent, and if the outcome is termination, what calendar will the process follow? The original paragraph should be rewritten to address these questions.

2. Page 4, 2. Review Principles, paragraph 11, sentence 1:  
In connection with reviews for reappointment and promotion of Continuing Contract Faculty on a contract of three or more years, these Guidelines will include, or NYU Shanghai will make available (in print and/or on the faculty portal):

### **Recommendation**

Remove the phrase "on a contract of three or more years", so that all Shanghai Continuing Contract Faculty, regardless of contract length, are addressed by these Guidelines.

3. Page 4, 2. Review Principles, paragraph 11, sentence 1:  
In connection with reviews for reappointment and promotion of Continuing Contract Faculty on a contract of three or more years, these Guidelines will include, or NYU Shanghai will make available (in print and/or on the faculty portal):

### **Recommendation**

With regard to the phrase "these Guidelines will include", is this not referring to the document under review? If so, the Guidelines should simply include the criteria and calendar described, or should state that they will be made available ("in print and/or on the faculty portal"). Further, the location of the faculty portal should be specified. If other Guidelines are being referenced, please identify them.

4. Page 5, 2. Review Principles, paragraph 12, sentence 1:  
In addition to reviews at the time of potential reappointment, Continuing Contract Faculty on a contract of three or more years must submit annually to the relevant NYU Shanghai Dean or Program Director an activity report, comparable in scope to reports required of tenured/tenure track faculty but as appropriate for Continuing Contract Faculty appointments and whose format will be designed in accordance with NYU Shanghai policy as in effect at that time.

### **Recommendation**

Is this activity report the one used for the Annual Merit Increase (AMI) or something completely separate?

### **Editorial Recommendations**

1. Page 2, 1. Introduction, paragraph 2, sentence 1:  
The purpose of these Guidelines is to outline the policies and procedures ...

### **Recommendation**

Replace the word "outline" with "establish".

2. Page 4, 2. Review Principles, paragraph 8, subparagraph iii, sentence 1:  
Continuing Contract Faculty on multi-year contracts may be reappointed following the completion of the review process outlined below.

### **Recommendation**

Replace the word "outlined" with "specified".

3. Page 5, 2. Review Principles, paragraph 11, subparagraph iii, sentence 1:  
Calendar for reviews and communication to faculty members that accords fair and timely notice of a review to take place and of its outcome.

### **Recommendation**

Delete the phrase "to take place".

4. Page 4, 2. Review Principles, paragraph 11:  
In connection with reviews for reappointment and promotion of Continuing Contract Faculty on a contract of three or more years, these Guidelines will include, or NYU Shanghai will make available (in print and/or on the faculty portal):
  - i. Statement of the academic criteria in the areas of teaching, program development, research (where appropriate), the creative and performance arts (where appropriate), and department and school service that will guide the committee's evaluation.
  - ii. Statement of the criteria of assessment in effect at the time.
  - iii. Calendar for reviews and communication to faculty members that accords fair and timely notice of a review to take place and of its outcome. Adequate notice for individuals to pursue alternative employment in the event of a negative decision;

### **Recommendation**

This list is not well constructed. We recommend:

In connection with reviews for reappointment and promotion of Continuing Contract Faculty on a contract of three or more years, these Guidelines will include, or NYU Shanghai will make available (in print and/or on the faculty portal):

- i. Statement of the academic criteria in the areas of teaching, program development, research (where appropriate), the creative and performance arts (where appropriate), and department and school service that will guide the committee's evaluation;
- ii. Statement of the criteria of assessment in effect at the time;
- iii. Calendar for reviews and communication to faculty members that accords fair and timely notice of a review to take place and of its outcome;
- iv. Adequate notice for individuals to pursue alternative employment in the event of a negative decision.

5. Page 6, 4. Review Process for Promotion, subparagraph iii, sentence 1:  
A faculty member may submit a request for early promotion to the relevant NYU Shanghai Dean or Program Director, but will be granted only under extraordinary circumstances.

**Recommendation**

Change "but will" to "which will".

6. Page 6, 4. Review Process for Promotion, subparagraph iv, sentence 1:  
The review process for promotion is the same as the review process for reappointment outlined in Section 3 above and typically takes place in conjunction with reappointment.

**Recommendation**

Change "outlined" to "specified".