



Date: November 21, 2014

Memo to: David W. McLaughlin, Provost

From: Ann Marie Mauro
Chairperson, N/C-Faculty Senators Council
A/Y 2014-2015

Subject: N/C-Faculty Senators Council Recommendation regarding University Guidelines for Full-time Non-Tenure Track/Contract Faculty Appointments

At the November 20, 2014 meeting of the N/C-Faculty Senators Council, the review and recommendations of the Taskforce on Review of the Faculty Handbook and Guidelines were approved. The Council submits the attached recommendations regarding the University Guidelines for Full-time Non-Tenure Track/Contract Faculty Appointments.

It is our expectation that the N/C-FSC will offer additional recommendations for revisions to the University Guidelines for Full-Time Non-Tenure Track/Contract Faculty Appointments as necessary. In particular, our Council will continue to review issues involving regulations concerning disciplinary procedures and grievance and appeals procedures for full-time non-tenure track/contract faculty (FTNTT/CF). Our Council will take time to develop procedures tailored to the specific needs of FTNTT/CF with plans to make these recommendations to the Provost in early spring 2015. In the interim, we recommend that policies be put in place for FTNTT/CF that mirror those currently in place for tenured/tenure track faculty.

cc: Carol Morrow, Senior Associate Provost/Chief of Staff to the Provost
Terrance Nolan, Deputy General Counsel And Director Of Labor Relations

N/C-FSC Steering Committee Members:
Randy Mowry, N/C-FSC Vice Chairperson
Fred Carl, N/C-FSC Task Force Co-Chair
David Elcott
Mary Killilea
Susan Stehlik
Patrick Ying

John Halpin, N/C-FSC Task Force Co-Chair

**Recommendations of the
Full-Time Non-Tenure Track/Contract Faculty Senators Council
in regards to the University Guidelines for Full-time Non-Tenure
Track/Contract Faculty Appointments**

Recommendations to the New York University Guidelines for Full-time Non-Tenure Track/Contract Faculty Appointments:

1. Introduction, first sentence:

Recommendation

Change “represent a distinct and important part...” to “**are** a distinct and important part....”

2. Page 1, **II. Formulation of School Policies**, first sentence:

Recommendation

Since the Guidelines are broad enough to allow for the unique cultures of all of the Schools and the two portal campuses, we recommend the following language: **Each school and the two portal campuses are governed by these Guidelines and are required to establish their own policies governing the appointment, review, and reappointment of full-time non-tenure track/contract faculty.**

We further recommend changing the language of Footnote 2 to the following: **NYU’s health professional schools (Medicine, Dentistry, and Nursing) and NYU’s portal campuses in Shanghai and Abu Dhabi are expected to embrace the spirit and values reflected in these guidelines, and to adopt policies accordingly.**

3. Page 3, **Participation in School Governance**, paragraph 3:

Recommendation

Change the sentence that is paragraph 2 to read: **Schools are expected to include FTNTT/CF on 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 4, **Hiring Plan and Process, a. Duration of Contracts**, paragraph 1, 4th line, last full sentence:

Recommendation

Change the last sentence of paragraph 1 to read (additions in **bold**):
However, in addition to providing schools with an essential degree of flexibility, one-year contracts **may be** programmatically and academically desirable in a number of schools and academic programs, and, **in those cases, should** be justified accordingly **to the Provost.**

5. Page 4, **Hiring Plan and Process, b. Hiring Practices**, 3rd line, 3rd sentence:

Recommendation

Sentence should read: Schools are **expected** to include FTNTT/CF in the hiring process for FTNTT/CF. [Delete the last sentence—if the expectation is that FTNTT/CF are part of the governance structure of the University and the schools, there should be no instances where FTNTT/CF are precluded from involvement in school procedures.]

6. Page 7, **V. GRIEVANCES RELATED TO REAPPOINTMENT AND PROMOTION OF FTNTT/CF, A. Principles, Paragraph 2, Line 4**

Recommendation

As a new sentence 3, to go between the existing 2nd and 3rd sentences, add language for school grievance committee formation for cases involving FTNTT/CF that mirrors the language found in the Faculty Handbook, Page 57, #4, with the suggested changes (here in **bold**):

“Each school or faculty shall establish a faculty committee to hear grievance cases in order to advise the dean. This grievance committee shall be elected by the voting members of the faculty and shall be a standing committee of the school or faculty. A majority of the committee shall be **senior FTNTT/CF**. It shall not include departmental chairpersons or department heads or any faculty member whose primary assignment is administrative.”

7. Page 8, **V. Grievances Related to Reappointment and Promotion of FTNTT/CF, c. Who Can Grieve:**

Recommendation

This section refers explicitly to FTNTT/CF grievances related to reappointment and promotion; however, it does not provide for any situation of a faculty member whose contract is not renewable filing a grievance for a violation of academic freedom, assuming that said grievance is compelling. Language protecting the faculty member in that case should be included.

8. Page 9, **e. Appeal from a Dean’s Decision on Appointment, Reappointment, or Promotion**

Recommendation

Appeals from a dean’s decision for FTNTT/CF should mirror those set forth for TTF, again following a principle of parallelism referred to in Handbook Recommendations, #10, first paragraph. To that end, please see the following page for a comparison between TTF and FTNTT/CF appeals processes with recommendations for new language.

9. Minor Editorial Issue: Proofread and insert “FTNTT/CF” where the term “contract faculty” is used.

Comparison of Appeals Procedures for TTF and FTNTT/CF, with Recommendations for New Language and Procedures

Faculty Handbook	Interim FT/NTTCF Guidelines	Recommended Guidelines Language
<p>1. A faculty member intending to make an appeal shall indicate such intention in writing to the Provost within 15 days after receiving written notification of the dean’s decision. An exception to this may be made only with the consent of the grievant, the dean, and the Provost. (Pg. 57)</p>	<p>The faculty member, after receiving written notification of the dean’s decision, has fifteen days to appeal to the Provost, which appeal must be in writing, specifying all grounds for and materials in support of the appeal, and received at the Office of the Provost within the fifteen-day period. (Pg. 9)</p>	<p>A faculty member intending to make an appeal shall indicate such intention in writing to the Provost within 15 days after receiving written notification of the dean’s decision. An exception to this may be made only with the consent of the grievant, the dean, and the Provost.</p>
<p>2. Where such an appeal is made, the dean shall transmit to the Provost a report of the proceedings in the case at its earlier stages. The Provost shall in each case obtain the advice of a standing committee of no less than three tenured faculty members selected by the Tenured/Tenure Track Faculty Council but not necessarily members of that body. This committee shall be called the Faculty Council Grievance Committee. (Pg. 57)</p>	<p>Where such an appeal is made, the dean shall transmit to the Provost a report of the proceedings in the case at its earlier stages. Upon receiving the transmittal, the Provost shall form an advisory committee to advise him or her about the merits of the case. The advisory committee shall consist of at least 1) one member of the appropriate University Faculty Senators Council, 2) one senior full - time contract faculty member not from the grievant’s school, and 3) one additional member who may be a senior administrator or senior tenured faculty or senior full- time contract faculty member not from the grievant’s school. The Provost shall constitute the advisory committee for a particular appeal by drawing on a standing committee he or she shall establish, whose job shall be to advise the Provost on appeals from a dean’s decision about appointment, reappointment, and promotion. The standing committee shall be comprised of two members of the appropriate Faculty Senators Council(s), five senior full-time contract faculty members drawn from five schools, and three who are either senior school administrators or senior tenured faculty members from three different schools.</p>	<p>Where such an appeal is made, the dean shall transmit to the Provost a report of the proceedings in the case at its earlier stages. The Provost shall in each case obtain the advice of an advisory committee drawn from a larger standing committee selected by the Full-Time Non-Tenure Track/Contract Faculty Council but not necessarily members of that body; the advisory committee shall consist of no less than three senior FTNTT/CF faculty members, at least two of whom are not from the grievant’s school. This advisory committee shall be called the Full-Time Non-Tenure Track/Contract Faculty Council Grievance Committee.</p>

<p>3. The Tenured/Tenure Track Faculty Council Grievance Committee shall hold a hearing and shall complete its deliberations and notify the Provost of its recommendations, preferably within 30 days of the close of the hearing, but in any case within 60 days. (Pg. 57-58)</p>	<p>The appeal committee shall hold a hearing and shall complete its deliberations and report its recommendation to the Provost preferably within thirty days of the close of the hearing, but in any case within sixty days. (Pg. 9)</p>	<p>The Full-Time Non-Tenure Track/Contract Faculty Council Grievance Committee shall hold a hearing and shall complete its deliberations and notify the Provost of its recommendations, preferably within 30 days of the close of the hearing, but in any case within 60 days.</p>
<p>4. The Committee shall not judge professional merits, but only ascertain whether procedural safeguards have been observed. Evidence that a decision appealed from is so arbitrary that it has no rational foundation may be considered on the issue of “inadequate consideration” (B-1-a above). (Pg. 58)</p>	<p>The committee shall not judge professional merits, but only ascertain whether procedural safeguards have been observed. Evidence that a decision appealed is so arbitrary that it has no rational foundation may be considered on the issue of “inadequate consideration.” (Pg. 9)</p>	<p>The Full-Time Non-Tenure Track/Contract Faculty Council Grievance Committee shall not judge professional merits, but only ascertain whether procedural safeguards have been observed. Evidence that a decision appealed is so arbitrary that it has no rational foundation may be considered on the issue of “inadequate consideration” (that the decisions violated the academic freedom of the faculty member in question, in which case the burden of proof falls to the grievant).</p>
<p>5. The Committee shall at all times follow the requisites of a fair and equitable hearing, but it is not to be restricted by the technical rules of evidence or the formality of the adversary proceeding as in a court trial. In each case the Committee shall determine its own procedure, adapting the requirements of the particular case to the equity of the situation. This shall include, for example, the question of a record of the hearing, the examination of witnesses, the schedule and public nature of meetings, etc. The grievant, however, may determine whether he or she shall have the aid of an advisor or counsel. (Pg. 58)</p>		<p>The Full-Time Non-Tenure Track/Contract Faculty Council Grievance Committee shall at all times follow the requisites of a fair and equitable hearing, but it is not to be restricted by the technical rules of evidence or the formality of the adversary proceeding as in a court trial. In each case the Committee shall determine its own procedure, adapting the requirements of the particular case to the equity of the situation. This shall include, for example, the question of a record of the hearing, the examination of witnesses, the schedule and public nature of meetings, etc. The grievant, however, may determine whether he or she shall have the aid of an advisor or counsel.</p>

<p>6. After receiving the advice of the Faculty Council Committee, the President and the Chancellor of the University and Executive Vice President for Academic Affairs shall decide the case and notify the grievant, the dean, and the Chairperson of the Faculty Council Committee. If the advice of the latter is not followed, the reasons shall be reported with the decision.</p>	<p>After receiving the advice of the committee the Provost shall decide the case, and notify the grievant and the dean. The Provost's judgment is final and subject to no further review.</p>	<p>After receiving the advice of the Full-Time Non-Tenure Track/Contract Faculty Council Committee, the Provost shall decide the case and notify the grievant, the dean, and the Chairperson of the Full-Time Non-Tenure Track/Contract Faculty Council Committee. If the advice of the latter is not followed, the reasons shall be reported with the decision.</p>
<p>7. If the dean's decision is favorable to the faculty member and hence is not appealed and the Office of the Chancellor of the University and Executive Vice President for Academic Affairs reverses that decision without seeking the advice of the Faculty Council Grievance Committee as described in B-1 through 7, the faculty member may then invoke the appeal procedure. (Pg. 58)</p>		<p>If the dean's decision is favorable to the faculty member and hence is not appealed and Provost reverses that decision without seeking the advice of the Full-Time Non-Tenure Track/Contract Faculty Council Grievance Committee as described above, the faculty member may then invoke the appeal procedure.</p>