

June 18, 2018

Memo to: Mary Killilea, Chairperson C- Faculty Senators Council

From: Katherine E. Fleming, Provost

Subject: C-Faculty Senators Council Resolution Supporting Enforcement of Procedures for Termination and Reorganization of Academic Programs Affecting Full-Time Continuing Contract Faculty

I reviewed the C-FSC Resolution about [Procedures for Termination and Reorganization of Academic Programs](#) (the “Policy”) as it applies to Full-Time Continuing Contract Faculty (FTCCF). The Policy addresses important matters, and the C-Faculty Senators Council (C-FSC) review is useful in bringing these matters to my attention. I appreciate your input, and will be mindful of this Policy as the University, a large complex organization, continues to evolve its academic structure.

In the following, I discuss the Policy in response to the specific items that the C-FSC Resolution raises. Since these matters also affect the tenured/tenure track faculty, I am copying the Chair of the T-Faculty Senators Council.

The first matter concerns the scope of the Policy, which consists of two Resolutions by the Board of Trustees. The 1997 Resolution clarifies the 1979 Resolution to provide that the consultation procedures (“Consultation Procedure,” “Decision Making”) for termination or reorganization of academic programs “shall apply only to (i) a proposed discontinuation (“Discontinuation”) of an existing academic program (or programs) leading to a degree or certification at New York University which, at the time such discontinuance is authorized, explicitly provides for the complete discontinuance of such academic program (or programs), or (ii) a proposed reorganization (“Reorganization”) of an existing academic program (or programs) leading to a degree or certification at New York University which, at the time such reorganization is authorized, explicitly provides for an immediate reduction in the number of existing tenured faculty holding positions in such program (or programs).”

As the 1997 Resolution predated the definition of the FTCCF in the Faculty Handbook and the establishment of the C-FSC, the Policy is silent on FTCCF. Since the 1997 Resolution provides that “any question or dispute as to the meaning of the applicability or implementation of these resolutions or the Prior Resolution shall be decided solely by the Board of Trustees of New York University whose decision shall be final and binding,” I consulted the Academic Affairs Committee of the Board of Trustees to clarify the applicability of the Policy to FTCCF. The Trustees discussed and reviewed these matters at its June 12, 2018 meeting, recognizing that FTCCF are vital, productive, and highly respected members of the University community, and that the University is committed to an environment of shared faculty governance. The Trustees also underlined the differences between the adjunct, FTCCF, and tenured/tenure track faculty. The Trustees established that the Policy shall be applied to FTCCF as follows:

- The “Consultation Procedure” and “Decision Making” in the Policy permit a role for FTCCF, as applicable. In the event of a Discontinuation, the affected FTCCF play a role, for example by serving on the appropriate elected standing committee and as a voting member, to the extent provided by each School’s Bylaws and consistent with the Faculty Handbook. In the event of a Reorganization, the issue is reduction in the number of existing tenured faculty holding positions in the concerned programs; the matter thus engages only the Tenured/Tenure Track Faculty. This interpretation is consistent with Faculty Handbook policies that provide FTCCF with substantial participation in department matters with the exclusion of matters strictly involving tenured and tenure track faculty, including the awarding of tenure and promotion to full Professor within the Tenured Tenure Track Faculty (University Bylaw Section 82(b) as cited in the [Faculty Handbook, Faculty Membership](#)); disciplinary proceedings for tenured and tenure track faculty ([Title IV: General Disciplinary Regulations Applicable to Both Tenured and Non-Tenured Faculty Members on the Tenure Track](#)); and [Faculty Grievance Procedures](#).
- In the event that Discontinuation or Reorganization involves an entire school, the process will be conducted by the Faculty Council, interpreted to mean the T-FSC with the C-FSC to the extent that FTCCF are involved in the affected school.
- The Policy does not apply to the elimination of FTCCF positions or the replacement of FTCCF positions with adjunct positions. Other policies in the Faculty Handbook address the former. The Faculty Handbook on [Reappointment and Promotion](#) of FTCCF provides that “Review for reappointment and promotion shall consider curricular and structural changes and improvements in academic programs. Even in those cases in which a candidate satisfies the appropriate standards of achievement, the decision to reappoint or promote may be impacted by curricular and structural changes and improvements in academic programs.” Further, “Where a position is to be eliminated at the end of the contract term and there is no similar position open, there is no reappointment process; however, the faculty member may request a performance review for career development to be conducted within a time framework specified by the school.” While FTCCF are not guaranteed continued reappointment, absent any individual contractual agreements to the contrary, such as separation agreements, FTCCF are free to apply to appropriate positions in the University, and as noted above, may request a performance review for career development.
- Matters that relate to grievances filed by FTCCF are adequately addressed in the [Grievance Procedures](#) cited in the Faculty Handbook. These procedures provide that “A school’s decision to not undertake the reappointment process where a position is to be eliminated at the end of the contract term and there is no similar position open is not the basis for a grievance.” Further, since the Policy does not apply to the elimination of FTCCF positions, whether the Policy was followed or not is not grounds for a FTCCF grievance.
- The Policy does not stipulate that the Provost formally advise the C-FSC (or for that matter, the T-FSC) of programs that are discontinued or reorganized. However, University practice is to advise the T-FSC and the C-FSC of Resolutions approved by the Board of Trustees that bear on the academic operations of the University.

- As is clear from the 1997 Resolution, the Policy does not apply to changes in the name of a program, department, division or school. The Policy does not apply in the case of an academic program that moves within the University, or faculty who move from one program, department or division, to another program, department, division, or school within the University. While the Policy does not technically apply in these cases, it is expected that the affected School will consult its full faculty to the extent provided by the School's bylaws and consistent with the Faculty Handbook.
- Matters that relate to professional development are outside the scope of the Policy. The University expects that each school will clarify how it sets aside funds for FTCCF to obtain professional development, as communicated in the April 18, 2017 memo from the President and Provost about "Increasing Base Compensation for Full-Time Continuing Contract Faculty, and Setting Clearer Policies for Professional Development Funds." In addition to school funds, FTCCF can also apply for [Institutional Funding Opportunities](#), which in most cases are open to all full-time faculty, and support for preparation of mega-grants.

Again, I thank you sincerely for flagging these matters for our attention. These are important matters that give us the opportunity to clarify how we govern and run a large and complex institution such as NYU. It is also an opportunity to reflect on the roles of the various constituencies at our University. We can discuss these matters further at a future point in time.

Cc: Wen Ling, T-FSC Chair
C-FSC Steering Committee Members, 2017-18: Susan Stehlik, Lauren Davis, John Gershman, Leila Jahangiri, Larry Slater, Beverly Watkins
Carol Morrow, Vice Provost
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