

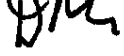
**NEW YORK UNIVERSITY**

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David W. McLaughlin *Provost*

November 11, 2013

Memorandum from: David W. McLaughlin, Provost 

To: Raghu Sundaram, Chairperson, Faculty Senators Council

Re: TSOA Guidelines for Arts Professors

I write in reply to the October 10 *Resolution of the FSC Regarding Review of the TSOA Guidelines for Arts Professors: Appointments, Renewals, Promotions*. I appreciate the Council's careful review of the document and your comments. The FSC requested "changes and clarifications" on two points and "clarification" on three additional points. I respond below to each point, incorporating consultation with Dean Campbell. I am also attaching a clean and tracked copy of the Guidelines amended by TSOA in response to points raised by the FSC.

With my approval, the attached revised interim *TSOA Guidelines for Arts Professors*, dated November 8, 2013 take effect immediately. As I noted in my September 17 letter to the FSC, this document will be employed until such time as University guidelines for full-time non-tenure track faculty are adopted. At that time, like all schools, TSOA will need to review this interim document and, if needed, amend it to be consistent with the guidelines.

*FSC item 1: "Reconcile language in 1.2 regarding "Full-Time Faculty" to be consistent with University Handbook guidelines for who can be designated as such. This consistency can be accomplished without altering the spirit with which the language is proposed by the Tisch faculty by making the second-to-last sentence read, "Arts Professors and tenure/tenure track professors both provide full-time service to the Tisch School." We note that the Faculty Handbook makes a distinction between the term "full-time", which is reserved for tenure/tenure track faculty, and the term "full-time service" which applies to both tenure/tenure track faculty and those non-tenure track faculty who provide full-time service to the University. Accordingly, the term "full-time faculty" should not be applied to non-tenure track faculty."*

*Correspondence of October 29, 2013 from W. Jelinek and transmitted by R. Sundaram referenced two passages in the Faculty Handbook: 1) Organization and Administration, The University Senate, citing Bylaw 59 and concluded "Thus, the implication that 'full time' is synonymous with tenured/tenure track;" and 2) The Faculty, Section VI. Academic Tenure.*

The cited sections in the Faculty Handbook are not a model of clarity. We have consistently interpreted these two passages to mean that only a full-time faculty member can be eligible for tenure, and not that all full-time faculty are tenure eligible. In other words, we believe that these passages are addressing only tenure/tenure track faculty. Any ambiguity in the first text can be clarified when the issue of representation of the full-time contract faculty is resolved later this academic year.

My firm position is to interpret the Handbook consistent with our practice – our full-time contract faculty receive full-time employee benefits and enjoy the privilege of full-time status within the University – and in a manner that is respectful to our full-time contract faculty. Thus, I do not accept the view that the term “full-time faculty” should not be applied to non-tenure track faculty. On this point, the TSOA faculty are adamant.

*FSC item 2: “Clarify the final sentence in section 1.5. In keeping with prior sentiment expressed by the FSC, we would strongly prefer that the policies in effect at the time of appointment apply to any action taken regarding Arts Professors with respect to appointments, renewals and promotions (see March 14, 2013 FSC resolution, Library Proposal to Create a Non-Tenure Track). We understand that the Provost has previously pointed out that the University Policy On Policies, and guidelines for contract faculty in other Schools similarly dictate that “it is the policies in effect at the time of an action that apply.” (See May 1, 2013 Memo from the Provost, FSC Recommendation about Division of Libraries Revised Faculty By Laws). However, we note that the example provided in that document is not commensurate with the FSC’s primary concern: ensuring that faculty are not unfairly disadvantaged by changing guidelines directly related to their appointments, renewals, or promotions that might be instituted after the time of appointment.”*

Let me take this opportunity to further clarify University policy. This is an important issue that is also under discussion with respect to procedures for amending the Faculty Handbook. University policies can be changed and applied to existing faculty and other employees, as stated in the NYU Policy on Policies that you cite. Laws and their interpretations change, and ethical standards, customs, and expectations also change over time. No institution can remain stagnant over the decades a faculty member is employed; in addition, the practical challenge of administering policies differently for different persons would be unduly burdensome if not impossible. The sentence in Section 1.5 that reads, “it is the policies in effect at the time of an action that will apply to that action” aptly expresses this position. This is not to suggest that grandfathering is not considered when a new policy is promulgated or a current policy is revised in a manner that significantly adversely impacts a class or category of faculty or other employees. Even then, however, the grandfathering may be limited (e.g., to longer-serving employees or employees closer to retirement or for some period of time).

With respect to the Arts Professor policy: It is not uncommon for academic standards for appointment, reappointment and promotion to change during the course of the faculty member’s appointment, as is the case here. Arts Professors currently have contracts that set forth the length of the term of the appointment (three years for an Assistant Arts Professor, and five years for Associate and Full Arts Professors), and that the review is in the penultimate year of the contract. The new policy explicates considerations and criteria in the review process, increases the length of appointment by one year in each rank, and describes how the new policy will be implemented: In section 1.5 TSOA added the sentence, “In accordance with NYU Policy, this Policy regarding Arts Professors shall apply to all appointments and promotions henceforth. While the standards and procedures for review stated in this Policy apply to all Arts Professors, all Arts Professors currently in rank will have the option of being reviewed in the year applicable under their current contracts, or having their contracts extended by one year and being reviewed in the year applicable to their contracts under the New Policy. ” The TSOA Dean’s Office will send a notice shortly to all Arts Professors explaining the option and providing a specified time in which faculty must file the election. Arts Professors who do not make a timely election will be reviewed in the year applicable under their old contracts.

*FSC item 3: “Also in section 1.5 the procedure for amending the policy should be defined, and the procedure should include the faculty.”*

TSOA added language to Section 1.5 to address this point: “Any amendment to this Policy must be in writing, submitted to the Tisch faculty for discussion and vote at a Faculty meeting and follow

University and Tisch policies for compliance with laws, consistency among policies, and guidelines for amending.”

*FSC Item 4: “Add language in sections 4.1 and 4.2 that specify what the review process is for determining whether an Arts Professor will be appointed past the first year probationary period, what the process is for annual review following the probationary period, including what School governing bodies/individuals will conduct the reviews.”*

TSOA amended the text to address these points: In section 4.1: “An Arts Professor’s review during the probationary year is conducted by the Department Chair. Guiding criteria for the Department Chair’s probationary year review may include, without limitation: evidence of commitment to teaching excellence, teaching syllabi, classroom observations, reports from area heads, professional activities and the quality of service contributions to the Department and to the School.” In section 4.2: “The Department Chair shall conduct an annual review of Arts Professors of all ranks. Beginning in the term of initial appointment, the format for the annual review and the criteria used to evaluate success in the areas of teaching, professional activity and distinguished service shall follow the annual review guidelines implemented by Tisch and the Department in which the Arts Professor teaches. “

*FSC item 5: “Specify in the final sentence of section 4.7: “The Chair of the Department is also notified and a request is sent [to whom?] that external evaluators be identified [by whom?].”*

TSOA amended section 4.7 to address these points: “The Chair of the Department is also notified and the Chair sends a request to external evaluators who will be identified by the Chair. “

Again, we appreciate your careful review of the TSOA policy and your suggestions for improving it.

#### **Attachment**

TSOA Guidelines for Arts Professors: Appointments, Renewals, Promotions, November 6, 2013

cc: Awam Amkpa, FSC Vice Chairperson  
 Ulrich Baer, Vice Provost for Arts, Humanities and Diversity  
 Mary Schmidt Campbell, Dean, Tisch School of the Arts  
 Peter Gonzalez, Assistant Provost for Academic Appointments  
 Katherine Fleming, Deputy Provost and Vice Chancellor  
 Ted Magder Immediate Past FSC Chair  
 Charlton McIlwain, FSC Secretary; FSC Personnel Policies & Tenure Modifications Co-Chair  
 Warren Jelinek, FSC Personnel Policies & Tenure Modifications Co-Chair  
 Carol Morrow, Associate Provost for Academic Operations Planning  
 Louis Scheeder, Associate Dean, Tisch School of the Arts