



Date: December 16, 2022

Memorandum to: Georgina Dopico, Interim Provost

From: David K. Irving
Chairperson, T-Faculty Senators Council
A/Y 2022-2023

Subject: T-Faculty Senators Council Recommendations: Proposed Revisions to the Faculty Handbook

The T-Faculty Senators Council submits the attached recommendations regarding the revisions to the Faculty Handbook. These recommendations were approved by the Council at the December 15, 2022 meeting.

cc: Kristen Day, Vice Provost

Noelle Molé Liston, C-FSC Chairperson

Marilyn Nonken, T-FSC Vice Chairperson
Christopher Park, T-FSC Secretary
Darcey Merritt, T-FSC Immediate Past Chair
David Grier, T-FSC Governance Chair
Karyn Ridder, Manager of Faculty Governance

Review of the Proposed Revisions to NYU's Bylaws and Faculty Handbook

T-FSC Governance Committee

David Grier - FAS (david.grier@nyu.edu)
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Danil Makarov - GSOM (markad01@nyu.edu)
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The Committee focused on proposed revisions that affect tenured or tenure-track faculty. These include three areas of particular concern

1. Academic Freedom
2. Grounds for Suspension and Termination
3. Governing documents for NYU and its Portal Campuses

In addition, several minor points could be beneficially addressed.

1. Academic Freedom

1.a) Title I, Section IV:

- **Current Text:** Faculty are entitled to freedom in the classroom in discussing their subject, but they should not introduce into their teaching controversial matter that has no relation to their subject.
- **Issue:** Who decides what is controversial and what is relevant? Academic freedom is expansive and is best defined by what it does not protect. That ACLU and peer institutions have developed defining language, a version of which is proposed.
- **Proposed Text:** Faculty are entitled to freedom in the classroom in discussing their subject. Academic freedom does not protect behavior on campus that crosses the line into targeted harassment or threats, or that creates a pervasively hostile environment for members of the community.

1.b) Title III: [Particular obligations].

- **Current Text:** In particular, all faculty members are obligated to live up to the standards of academic freedom as outlined in this Handbook. Disciplinary action may also follow when the faculty member violates a policy of the University, such as the Rules for the Maintenance of Public Order, engages in any action that interferes with the regular operations of the University or the rights of others, commits any serious violation of the law, engages in any other conduct prejudicial to the teaching, research, or welfare or reputation of the University, or in any conduct unbecoming a member of the faculty.
- **Issue:** The lack of a standard potentially encroaches on academic freedom. This can be addressed by reference to the definition of academic freedom in Title I.

- **Proposed Text:** In particular, all faculty members are obligated to live up to the standards of academic freedom as outlined in this Handbook. Disciplinary action may also follow when the faculty member violates a policy of the University, such as the Rules for the Maintenance of Public Order, engages in any action that interferes with the regular operations of the University or the rights of others, commits any serious violation of the law, engages in any other conduct **not protected by academic freedom that is** prejudicial to the teaching, research, or welfare or reputation of the University, or in any conduct **not protected by academic freedom that is** unbecoming a member of the faculty.

2. Grounds for Suspension and Termination

Title IV, Article XI Grounds for Suspension and Termination

- **Current Text:** [Adequate cause]. Adequate cause includes (but is not limited to) one or more of the following: incompetent or inefficient service; neglect of duty; repeated and willful disregard of the rules of academic freedom as set forth in this statement; physical or mental incapacity; or **any other conduct of a character seriously prejudicial to the faculty member's teaching or research or to the welfare or reputation of the University**, including, in certain circumstances, violations of the general and particular obligations set out in Sections 1 and 2 of Title III. [Cf. University Bylaws, Section 92, Removal of Tenured Faculty and Tenured Librarians.]
- **Issue:** The lack of a standard creates the potential to sanction a faculty member for conduct that should be protected by academic freedom.
- **Proposed Text:** [Adequate cause]. Adequate cause includes (but is not limited to) one or more of the following: incompetent or inefficient service; neglect of duty; repeated and willful disregard of the rules of academic freedom as set forth in this statement; physical or mental incapacity; or any other conduct **not protected by academic freedom** of a character seriously prejudicial to the faculty member's teaching or research or to the welfare or reputation of the University, including, in certain circumstances, violations of the general and particular obligations set out in Sections 1 and 2 of Title III. [Cf. University Bylaws, Section 92, Removal of Tenured Faculty and Tenured Librarians.]

3. NYU's Governing Documents

3.a) Explaining the organization of NYU's Governing Documents

The Faculty Handbook's section on Organization and Administration briefly mentions the Bylaws in the section on the Board of Trustees, but does not explain that the Bylaws constitute the authoritative governing document for the University. This should be stated explicitly in the Faculty Handbook, ideally in the Foreword that explains the purpose of the Handbook. The same statement should explain where to find the Bylaws.

3.b) Explaining how NYU's Governing Documents Apply to NYU's Portal Campuses

The Faculty Handbook does not include NYU Abu Dhabi or NYU Shanghai in the list of schools of NYU. The relevance (or lack of relevance) of the Faculty Handbook for those campuses should be explained in the preamble. For example

- NYU Abu Dhabi provides separate documents that explain how the Faculty Handbook applies to the administrative structure of that campus. The Faculty Handbook should explain this and should provide information on how to find those documents.
- The Faculty Handbook for NYU Shanghai is published locally in Chinese and is updated whenever the Faculty Handbook is updated. This should be explained in the Faculty Handbook along with an explanation of the policy to maintain the Chinese language version and a clarification of the policies to be followed whenever the two editions are temporarily out of synchronization.

4. Minor Points

4.a) Faculty Responsibilities

- **Current Text:** Full-time teaching loads are determined administratively under guidelines approved by the Office of the Provost **and the dean in consultation.**
- **Issue:** It no longer is clear which deans establish teaching loads.
- **Proposed Text:** Full-time teaching loads are determined administratively under guidelines approved by the Office of the Provost **and the dean of the academic unit in consultation.**

4.b) Summer Salary

- **Current Text:** For faculty appointed on a nine-month basis, NYU's policy is to permit a **maximum of 95% of one-ninth of Institutional Base Salary to be charged to a sponsor in any given month,** including summer.
- **Issue:** This restriction is based on NYU's internal practices and is not consistent with the policies and regulations of many funding sources such as federal agencies and philanthropic foundations. Funding agencies' requirements for auditable compliance impose constraints that should be addressed on a case-by-case basis, rather than in the institution's governing documents.
- **Proposed Text:** For faculty appointed on a nine-month basis, NYU's policy is to permit a **maximum of one-ninth of Institutional Base Salary to be charged to a sponsor in any given month,** including summer.