



Date: May 6, 2016

Memo to: David W. McLaughlin, Provost

From: Allen Mincer
Chairperson, T-Faculty Senators Council
A/Y 2015-2016

Subject: Recommendations of the T-FSC regarding NYU School of Law Policy on Continuing Contract Faculty Appointments

At the May 5, 2016 meeting of the T-Faculty Senators Council, the attached recommendations were approved.

cc: Katherine Fleming, Deputy Provost and Vice Chancellor
Carol Morrow, Senior Associate Provost/Chief of Staff to the Provost
Trevor W. Morrison, Dean, School of Law
Peter Gonzalez, Assistant Provost for Academic Appointments

Awam Amkpa, T-FSC Vice Chairperson
Arvind Rajagopal, T-FSC Secretary
Mitchell Kane, T-FSC Immediate Past Secretary
Warren Jelinek, T-FSC Personnel Policies & Tenure Modifications Committee Co-Chair
Nancy Van Devanter, T-FSC Personnel Policies & Tenure Modifications Committee Co-Chair

**Recommendations Of
The Tenured/Tenure Track Faculty Senators Council In Regard To:**

**NYU SCHOOL OF LAW
POLICY ON
CONTINUING CONTRACT FACULTY APPOINTMENTS**

Background

From the Law School Dean's transmittal letter to the Provost:

"The Law School's policy (the "Policy") was drafted by my office, in close consultation with Vice Dean Randy Hertz, who oversees our clinical program. At each step, we consulted both your office and Vice Dean Hertz. Once we were satisfied with the Policy's language, the Policy was provided to our clinical faculty (some of whom are CCF), and I attended a meeting of our clinical faculty specifically to discuss the Policy and answer any questions. The Policy was then distributed to our voting faculty (including our Continuing Contract Faculty) and placed on the agenda for our October 7, 2015 faculty meeting. At that meeting, the faculty engaged in a substantive discussion of the draft policy, focusing on questions concerning consistency of the Law School's Policy with University policy and the involvement of CCF in faculty governance (particularly voting rights of CCF and faculty meeting attendance by CCF). After some further revision of the Policy's language in light of the faculty discussion, the Policy was approved unanimously by our voting faculty—including the Continuing Contract Faculty who were in attendance at the faculty meeting—on November 11, 2015."

Substantive Recommendations:

1. II. Responsibilities of CCF
First paragraph
Final Bullet Item
Page 2

"Carry a full teaching load. This usually means teaching 10-11 credits per academic year and possibly also supervising a reasonable number of student writing projects, as well as being reasonably available to students as an advisor and resource"

"Reasonable" is a subjective term open to several interpretations.

Recommendation

Consider defining the meaning of "reasonable" and "reasonably". As it may be difficult, or not possible, to establish definitive definitions, "reasonable" and "reasonably" could be defined in terms of "not more than ..." or "not more than requiring x% of full-time employment", beyond which they would be considered "unreasonable".

2. III. Appointment & Reappointment of CCF
c. Criteria for Reappointment

“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.”

Recommendation

Specify explicitly that for a contract faculty member who satisfies the appropriate standards of achievement, but for whom the decision to reappoint or promote is impacted by curricular and structural changes and improvements in academic programs and which impact abrogates reappointment or promotion, an attempt will be made to determine whether the not-reappointed or not-promoted contract faculty member would be qualified to fill another vacant position, if one were available, and if qualified, the faculty member will be considered for such position, or absent that, the reason not to reappoint or not to promote will be clearly stated in a report not to reappoint, which will be available to the not-reappointed or not-promoted faculty member, so as to eliminate any possibility that the decision not to reappoint or not to promote could be interpreted as due to the failure of the faculty member’s performance.

3. III. Appointment & Reappointment of CCF
d. Procedures for Appointment & Reappointment
First Paragraph
First Sentence
Page 3

“To handle all new CCF appointments, and reappointments other than those of clinical professors, the Law School is creating a new committee called the Contract Faculty Personnel Committee (“CFPC”).”

Recommendation 1

As it is easy to confuse the term “clinical professors” with “clinical full professors”, particularly because the term “clinical professor” is used in section III Appointment & Reappointment of CCF, a. Titles, page 2 to mean “clinical full professor”, replace “professors” with “faculty” or add after “professors” “of all ranks” to clearly define the meaning of “professors” in this context.

Recommendation 2

Specify how the members of the CFPC will be chosen, e. g., by administration (Dean) appointment either with or without consultation of the faculty, election by the faculty?

Recommendation 3

Specify the number of T/TT faculty members and CCF members that, together, the CFPC will comprise.

4. III. Appointment & Reappointment of CCF
d. Procedures for Appointment & Reappointment
Second Paragraph

First and Second Sentences
Page 3

“For three-year contracts, the Contract Faculty Personnel Committee will conduct a review for reappointment to the same or higher title in the spring of the second year. The Committee will review CCF with five-year contracts for reappointment in the spring of the fourth year of the term.”

As stated in
III. Appointment & Reappointment of CCF
a. Titles
First Paragraph
Final Sentence
Page 2-3

“On a going forward basis, a two- three- or five-year term will be standard for faculty in both clinical and practice titles; these terms of appointment typically correspond to rank.”

The question arises as to when the Contract Faculty Personnel Committee will conduct a review for reappointment to the same or higher title for CCF with contracts of two years duration.

Recommendation

Add language to indicate the time at which the Contract Faculty Personnel Committee will conduct a review for reappointment to the same or higher title for CCF with contracts of two years duration.

5. III. Appointment & Reappointment of CCF
d. Procedures for Appointment & Reappointment
Second Paragraph
Final Sentence
Page 3

“At the request of a single member of the Committee, the Committee may also undertake a mid-contract review in the second year of the contract term.”

Recommendation

Substitute for clarity, “a three-year or five-year contract term” for “the contract term”, on the premise that such a mid-term review in the second year cannot occur when the contract is only two years long, as the second year would be the final year of the contract.

6. IV. Grievance Rights and Procedures Related to Reappointment and Promotion of CCF
Third Paragraph
Page 5

“If the complaint cannot be resolved informally, the CCF may file a written grievance with the Dean. Within 15 days of receiving a written grievance, the Dean will forward the complaint

to the Executive Committee, which shall have jurisdiction over any such grievances. Prior to forwarding the complaint to the Executive Committee, the Dean shall name one CCF to participate in the committee (which otherwise consists of tenured faculty members) for the limited purpose of reviewing the grievance. Student members of the Executive Committee shall not take part in the Committee's consideration of a CCF grievance."

Recommendation

As the composition of the Executive Committee is not defined in this policy, we recommend that for the purpose of hearing grievances brought by CCF members it comply with the specifications for school grievance committees as stated in:

UNIVERSITY GUIDELINES FOR FULL-TIME NON-TENURE TRACK/CONTRACT FACULTY APPOINTMENTS

V. GRIEVANCES RELATED TO REAPPOINTMENT AND PROMOTION OF FTNTT/CF

d. The School Grievance Process

Second Paragraph

"If a faculty member's grievance is not settled informally at the level below the dean, or by the dean himself or herself, the faculty member may appeal to the dean to convoke the grievance committee of the school or faculty. 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 FTNTT/CF grievances, which will include senior FTNTT/CF and T/TTF elected by the voting members of the faculty; or shall expand its existing standing grievance committee for T/TTF to include (elected) senior FTNTT/CF who shall participate in hearing and evaluating only those grievances that are filed by FTNTT/CF. The faculty grievance committee(s) shall not include departmental chairpersons or department heads or any faculty member whose primary assignment is administrative."

Minor editorial issues:

1. II Responsibilities of CCF
First Paragraph
Fifth Bullet Item
Page 2

"Maintain their stature and connection to the professional communities from which they are drawn, including (but not limited to) by attending conferences, networking, presenting CLE courses, etc."

Recommendation

Replace "CLE" with "Continuing Legal Education"

2. III. Appointment & Reappointment of CCF
d. Procedures for Appointment & Reappointment

Contracts Concerning Appointment and Reappointment

First Paragraph

Page 4

“At the time of his or her initial appointment, all CCF, regardless of the length of their appointment, will be provided with a written letter agreement which is to be signed by both parties that includes the following information:”

Recommendation

Substitute “each” for “all; substitute “his or her” for “their”; add “,” before “which”; substitute “and will include” for “that includes”

“At the time of his or her initial appointment, each CCF, regardless of the length of his or her appointment, will be provided with a written letter agreement, which is to be signed by both parties and will include the following information:”

3. III. Appointment & Reappointment of CCF
 - d. Procedures for Appointment & Reappointment
Contracts Concerning Appointment and Reappointment
Second Paragraph
First Sentence
Page 4

“Use of contracts with one-year terms generally will be used only to fill unexpected vacancies on an emergency basis.”

Recommendation

Remove “Use of” and begin the sentence with “Contracts”

“Contracts with one-year terms generally will be used only to fill unexpected vacancies on an emergency basis.”

4. IV. Grievance Rights and Procedures Related to Reappointment and Promotion of CCF
 - First paragraph
Fourth Sentence
Page 5

“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.”

Recommendation

Substitute “not to” for “to not” so as not to split the infinitive.

