



## UNIVERSITY GUIDELINES FOR FULL-TIME NON-TENURE TRACK/CONTRACT FACULTY APPOINTMENTS<sup>1</sup>

### I. INTRODUCTION

Full-time non-tenure track/contract faculty (FTNTT/CF) are a distinct and important part of the University academic community and contribute significantly to the University's academic missions. School policies applicable to this group of faculty shall recognize the contributions they make to the University's commitment to teaching excellence, traditional research, and other forms of scholarly and artistic achievement, as well as University service.

### II. FORMULATION OF SCHOOL POLICIES

Each school governed by these Guidelines<sup>2</sup> is required to establish its own policies governing the appointment, review, and reappointment of FTNTT/CF consistent with school culture and history, and sensitive to the diversity of FTNTT/CF roles and responsibilities in the school. These policies must contain a comprehensive set of procedures that conform to the general principles set forth herein, and must appear in a document that is readily available (in print and on the web) to all faculty members of the school.

In response to these guidelines and as appropriate thereafter, schools shall formulate and/or amend their policies in accordance with existing school governance processes and with the expectation that FTNTT/CF shall participate in formulating and/or amending the school policy to the extent and manner in which school governance policies permit. Policies on FTNTT/CF developed or amended by the school according to such procedures will be reviewed by the Provost to determine whether the procedures applied in their formulation and manner of adoption have provided for adequate deliberation and representation of the view of the school's faculty taken as a whole, and whether the substance of the policy: (i) is consistent with general University policy; (ii) is compatible with the University's commitment to excellence in teaching, research, scholarship, or artistic achievement and service within a community of respectful and respected academic professionals; and (iii) has no adverse implications for the University.

Newly formulated or amended school policies governing the hiring, review, and reappointment of FTNTT/CF are effective and binding only upon approval of the Provost, who in reaching his or her decision shall consult with the Tenured/Tenure Track Faculty Senators Council (T-FSC) and the FTNTT/CF Senators Council (N/C-FSC).<sup>3</sup>

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<sup>1</sup> These Guidelines are issued on an interim basis, pending further development to address grievances concerned with matters other than for reappointment and promotion; and disciplinary procedures..

<sup>2</sup> At this time, this document does not apply to NYU's health professional schools (Medicine, Dentistry, and Nursing) or to NYU's portal campuses in Shanghai and Abu Dhabi. However, these schools are expected to embrace the spirit and values reflected in these guidelines, and to adopt policies accordingly.

<sup>3</sup> All policies must be consistent with the University's Bylaws and with actions of the University's Board of Trustees.

Each school shall establish a formal process for conducting a five-year review of the school policy initially approved under these guidelines and for successive reviews of the policy and its implementation periodically thereafter. This review shall include a written report from the school dean to the Provost, who shall consider both the substance of the policy as well as its implementation.

### III. TITLES AND TERMS OF EMPLOYMENT

#### Scope of These Guidelines

These Guidelines apply to Full-Time Non-Tenure Track/Contract Faculty as they are defined in Bylaw 87(a), *Full-Time Non-Tenure Track/Contract Faculty Appointments*.<sup>4</sup> FTNTT/CF “are faculty who are not Tenured/Tenure Track Faculty and who: (i) have full-time appointments at the University; (ii) have titles or appointments that do not prohibit indefinite contract renewals (although promotion within the appointment category, such as from Assistant to Associate, may be required for renewal); and (iii) are not visiting faculty (including persons who have tenure or are on the tenure track at another institution and persons who are on leave from another institution or company.”

#### Titles for FTNTT/CF

FTNTT/CF have an array of titles, which may vary depending on the school, and which may overlap with Other Faculty titles (see Bylaw 88, *Other Faculty*). FTNTT/CF are to be appointed using academic titles from among appropriate titles set forth in University Bylaws at that time and listed among *Nontenure Positions* (Bylaw 89, *Nontenure Positions*). Schools seeking to create materially different academic titles designed to convey FTNTT/CF status must secure the approval of the Provost, who shall consult with the T-FSC and the N/C- FSC and make a recommendation to the Board of Trustees to amend the Bylaws accordingly.

#### Written Contracts

Each FTNTT/CF appointment is to be secured by a written contract, specifying a fixed term, signed by the parties to it, and filed with the school dean and the University Office of Academic Appointments prior to commencement of employment.

Such contracts shall include the following terms negotiated between the faculty member and the appropriate administrator with the authority to do so, and approved by the dean:

- start and end dates of the appointment;
- an indication of whether the faculty member is eligible to be considered for reappointment upon conclusion of the current contract;
- academic responsibilities, compensation, and obligations of the appointment;
- particular responsibilities and benefits; and
- agreement to be bound by applicable University policies.

In accordance with University Bylaw 87(b), *Contracts and Titles*, the appointment of FTNTT/CF automatically terminates at the close of the period of time stipulated in the contract, unless there is an official notice of renewal. By signing the contract, appointees acknowledge that they have received adequate notice of their termination date. Thus, reappointment can be achieved only by a school’s taking

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<sup>4</sup> Bylaw 87(a) and other Bylaws referenced in this document were approved by the NYU Board of Trustees on June 11, 2014 effective September 1, 2014.

affirmative action to do so.

### **Areas of Responsibility**

Responsibilities and assignments for FTNTT/CF vary from school to school and within schools and are normally differentiated by title. Each school shall define and prioritize the responsibilities associated with FTNTT/CF positions and establish performance expectations.

Responsibilities associated with FTNTT/CF appointments typically include some but not necessarily all of the following and need not be restricted to them:

- teaching including, but not limited to, classroom instruction;
- scholarship including, but not limited to, for example, research, publications, creative productions, and performances;
- student advising;
- service including, but not limited to, service to the University community and within and to one's profession; and
- additional academic roles and administrative responsibilities that contribute to the school's or University's educational, research, and service missions.

### **Participation in School Governance**

In accordance with Bylaw 82(c), *Faculty Membership, College and School Governance*, the FTNTT/CF of a school may hold its own faculty meetings and may grant rights of attendance and voting privileges to other categories of faculty of the school, as it determines; and may participate in joint meetings with tenured/tenure track faculty.

Schools are expected to permit FTNTT/CF to be represented within their respective school governance bodies, and to include FTNTT/CF on appropriate 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.

### **Transfer between FTNTT/CF and Tenured or Tenure Track Appointments**

While not prohibited, FTNTT/CF appointments are not normally convertible to tenure track appointments. In rare cases, and then only with provostial approval, a school may choose to convert a non-tenure track position into a tenure track one for which the incumbent is eligible to apply within the search process. In these rare cases, conversion of a non-tenure track position into a tenure track position will not foreshorten an existing contract duration as could occur, for example, if the conversion occurred before expiration of an existing contract and the contractee was not selected for the tenured or tenure track appointment. However, no school policy may prohibit a FTNTT/CF member from applying for and being considered for any tenure track opening that arises within his or her school or elsewhere in the University; nor may any school policy treat his or her doing so with prejudice.

## **IV. HIRING, REAPPOINTMENT, PROMOTION AND PERFORMANCE ASSESSMENT**

### **Excellence in Faculty Appointments**

Appointment processes for FTNTT/CF shall reflect the University's overriding commitment to enhance

academic excellence and to provide students with the best available educational experience. Thus, each FTNTT/CF appointment and reappointment shall be evaluated in the light of the contribution it makes to the distinct excellence of the school including its educational and training programs, and shall exemplify the university's commitment to appoint and retain the best faculty in all disciplines.

## **Hiring Plan and Process**

### **a. Duration of Contracts**

FTNTT/CF appointments that provide for the possibility of extended periods of employment support continuing involvement with students and colleagues and provide an appropriate and desirable element of job security. Thus, wherever possible, schools are encouraged to reduce reliance on one-year contracts. 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 within schools; school policies shall include a rationale for a FTNTT/CF title(s) that carries a one-year appointment.

Full-time contract faculty members are to be hired within the context of the school's long-term strategic planning for faculty academic programming, which is approved by the Provost. This is true for one-year as well as multi-year contracts.

### **b. Hiring Practices**

Hiring practices for FTNTT/CF shall be transparent and fair. The process shall include involvement of department and school committees and deans, in accordance with school governance processes. Schools are expected to include FTNTT/CF in the hiring process for full-time contract faculty.

## **Reappointment and Promotion**

### **a. Eligibility and Criteria for Reappointment and Promotion**

Faculty appointed under both one-year and multi-year full-time contracts may be eligible for reappointment. Contracts will specify whether this is the case. Schools are encouraged to provide regular written feedback to faculty on multi-year contracts regarding their performance.

Each school shall establish clear processes for reappointment and promotion. Each school shall set exacting standards embodying the highest levels of achievement that ensure the distinct excellence of the school's educational and training programs. 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.

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.

### **b. Reappointment for Multi-Year Full-Time Contracts of Three Years or More**

These guidelines distinguish between reappointment processes governing multi-year full-time contracts and one-year full-time contracts.

In the case of multi-year full-time contracts of three years or more, reappointment requires a formal review process. The process shall be conducive to insuring that candidates for reappointment and promotion exhibit the highest level of performance and achievement – whether in teaching, the creative arts, or traditional scholarship and research.

Review for reappointment/non-reappointment is conducted in the penultimate year of the initial term of appointment and shall be completed by the end of that penultimate year. In the event of a decision to reappoint, the FTNTT/CF shall complete the remainder of his/her term and shall be reappointed, normally, for another multi-year term. In the event of a decision to not reappoint, the contract faculty member shall be notified of the intention to not reappoint no later than August 31<sup>st</sup> of the penultimate year, and shall continue to be under contract for the final year.

Each school process for review of full-time multi-year contracts of three years or more, including promotion reviews, must include:

- a review committee, which is advisory to the dean and/or unit head, and rules determining how the committee is to be constituted;
- a statement of the academic criteria in the areas of teaching, program development, the creative and performance arts (where appropriate), department and school service, and research and scholarship (where appropriate) that will guide the committee's evaluation;
- the criteria of assessment in effect at the time, which shall be available to the faculty in print and on the web;
- a published and widely available calendar for department/school-level reviews and communication to faculty members that accords fair and timely notice of a review to take place and of its outcome. Schools may have different administrative calendars; however, all schools shall provide adequate notice for individuals to pursue alternative employment in the event of a negative decision;
- the grounds for stopping the contract clock for reasonable cause, e.g., medical, personal, as primary caregiver for child, spouse, parent, same-sex domestic partner, or by contractual stipulation or negotiation; and
- the grounds for grievance and appeal as laid out in this document (below, Section V.).

In addition to formal reviews at the time of potential reappointment, each FTNTT/CF member on a multi-year contract of three years or more shall annually submit to his/her dean an activity report, comparable in scope to reports required of tenured/tenure track faculty (T/TTF) but as appropriate for FTNTT/CF appointments, whose format shall be designed in accordance with school policy as in effect at that time.

In addition, schools may wish to carry out formal performance assessments from time to time in the course of multi-year appointments that are longer than three years.

### **c. Reappointment for Continuous Service on One-Year or Two-Year Full-Time Contracts**

Though no reappointment can proceed without a performance assessment, numerous factors render the sort of formal review appropriate for multi-year appointments inapt in the case of faculty on one- or two-year contracts being considered for reappointment. Each school must formulate a policy that provides for appropriate assessment criteria adequate to determine whether reappointment is warranted. Criteria may include evaluation of classroom performance, review of curricular materials, and the like.

As is the case in multi-year contracts, eligibility to be considered for reappointment does not guarantee

reappointment.

FTNTT/CF may be reappointed to a series of one-year or two-year full-time contracts. In the first semester of the third year of continuous appointments, a FTNTT/CF member shall be subject to formal review comparable to those to which faculty members on longer multi-year contracts are subject. The process governing third-year reviews of faculty on continuous contracts shall include:

- a review committee, which is advisory to the dean and/or unit head, and rules determining how the committee is to be constituted;
- a statement of the academic criteria in the areas of teaching, program development, the creative arts (where appropriate), department and school service, and scholarship (where appropriate) that will guide the committee's evaluation;
- the criteria of assessment in effect at the time, which shall be available to the faculty in print and on the web;
- a published and widely available calendar for department/school-level reviews and communication to faculty members that accords fair and timely notice of a review to take place and of its outcome. Schools may have different administrative calendars; however, all schools shall provide adequate notice for individuals to pursue alternative employment in the event of a negative decision. Normally, a FTNTT/CF must be notified of the intention not to be reappointed no later than March 1<sup>st</sup> of the final year of the contract, if the appointment is to be terminated on August 31<sup>st</sup>. Normally, a FTNTT/CF whose period of appointment is due to terminate on a date other than August 31<sup>st</sup> must be notified of the intention not to be reappointed no later than 180 days prior to the termination date;
- the grounds for stopping the contract clock for reasonable cause (e.g., medical, personal, as primary caregiver for child, spouse, parent, same-sex domestic partner, or by contractual stipulation or negotiation); and
- the grounds for grievance and appeal as laid out in this document (below, Section V.).

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

The purpose of these Guidelines is to establish University procedures by means of which FTNTT/CF can seek redress of their grievances. A grievant must be a faculty member of New York University when he or she initiates the appellate grievance procedure under Section V.e., Appeal from a Dean's Decision on Reappointment and Promotion.

### **a. Principles**

Each school shall have a formal and written grievance policy that is widely available and easily accessible to faculty, reflective of the distinctive culture of the school, responsive to the University's commitment to academic excellence and to its responsibility to provide students with access to an excellent education, and cognizant of its responsibility to faculty to afford them due process and a fair hearing of their complaint. Each such policy must identify who is permitted to grieve, what can be grieved, the grounds upon which grievances are to be judged, and the procedures for doing so.

To guide the schools, these Guidelines set forth and clarify applicable University policy and processes with respect to reappointment of FTNTT/CF. These guidelines complement the [\*Faculty Grievance Procedures\*](#), cited in the Faculty Handbook, which apply to tenured/tenure track faculty. The following guidelines for grievances related to reappointment and promotion of FTNTT/CF are similar to those

Procedures but clarify who can grieve, and provide for the participation of FTNTT/CF on school grievance committees and in the appeal process.

School policies should also address grievances on other matters such as duties, salaries, perquisites, and working conditions. University compliance and workplace policies govern grievances on a range of additional matters.

#### **b. Grievances Relating to Reappointment and Promotion**

Grievances related to reappointment and promotion of FTNTT/CF are restricted to allegations of procedural defects and irregularities. Outcomes of the review process or decisions reached through the review process can be grieved only to the extent that they involve violation of University-protected rights of faculty members. Thus, a grievance must allege that 1) the procedures used to reach the decision were improper, or that the case received inadequate consideration; or 2) that the decisions violated the academic freedom of the faculty member in question, in which case the burden of proof falls to the grievant. 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.

#### **c. Who Can Grieve**

A FTNTT/CF member whose contract is non-renewable or who is not eligible for reappointment cannot grieve a decision not to reappoint.

Individuals on multi-year contracts of three years or more who are subject to a review process to determine whether they are to be reappointed do have a right to grieve the process in the event it leads to a negative decision with respect to reappointment or promotion or the terms of reappointment or promotion; and they are entitled to grieve in the event they are denied reappointment without review for reasons other than elimination of the position.

Faculty on continuous one-year or two-year appointments are similarly entitled to grieve the process in the event the third-year review process leads to a negative decision; and they are entitled to grieve the process in the event they are not reappointed after a third year review when a review had been explicitly promised in connection with the possibility of reappointment subject to it, but was not undertaken for reasons other than elimination of the position.

FTNTT/CF who are subject to a review process to determine whether they are to be promoted have a right to grieve the process in the event it leads to a negative decision.

#### **d. The School Grievance Process**

It is expected that most grievance cases shall be settled within each school; and that attempts shall be made to settle the dispute by informal discussions between the concerned parties, possibly with the assistance of mediators.

If a faculty member's grievance is not settled informally at a 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.

The dean shall convoke the committee within fifteen working days of receiving the faculty member's appeal. In any instance in which the dean has not so convoked the grievance committee, the faculty member has the right to bring it to the attention of the Office of the Provost. An exception to this may be made only with the consent of the grievant, the dean and the Provost.

The grievance committee does not judge the professional merits of the case, but considers the grounds specified above (Section b. Grievances Related to Reappointment and Promotion). After obtaining the recommendation of the grievance committee, the dean shall decide the case and in writing shall notify the concerned parties and the grievance committee of his or her decision, together with reasons therefore, and information on the procedure for appeal.

#### **e. Appeal from a Dean's Decision on Reappointment, or Promotion**

Appeals from a dean's decision can be made only on the following grounds: a) that the procedures used to reach the decision were improper, or that the case received inadequate consideration; or b) that the decisions violated the academic freedom of the person in question, in which case the burden of proof is on the faculty member.

A faculty member intending to make such an appeal shall indicate such intention in writing to the Provost, specifying all grounds for and materials in support of the appeal 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.

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 standing committee that shall consist of the members of the N/C-FSC Grievance Committee and the T-FSC Grievance Committee; in each case committee members shall be selected by the relevant faculty senators council but need not necessarily be members of the particular council. The FTNTT/CF Grievance Advisory Committee shall consist of three members, none of whom are from the grievant's school: one from the N/C-FSC standing committee, one from the T-FSC standing committee, and one senior administrator selected by the Steering Committee of the N/C-FSC.

The FTNTT/CF Grievance Advisory 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 sixty 60 days. The FTNTT/CF Grievance Advisory Committee shall at all times follow the requisites of 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.

The FTNTT/CF Grievance Advisory 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."

After receiving the advice of the FTNTT/CF Grievance Advisory Committee the Provost shall decide the case, and notify the grievant, the dean and the Chairperson of the FTNTT/CF Grievance Advisory Committee. If the advice of the latter is not followed, the reasons shall be reported with the decision. The Provost's decision is final and subject to no further review.