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for UC
~~UC/AFT~~
for AFT
B-LK
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ARTICLE 7a
PRE-SIX APPOINTMENT and REAPPOINTMENT

A. GENERAL PROVISIONS

This Article applies only to NSF with appointments that commence within the first six years of employment at the same campus. An appointment in the first six (6) years of employment ~~does not~~ neither creates an entitlement to nor precludes reappointment.

- ~~1. An NSF appointment may be terminated prior to the established ending date only in accordance with Article 17, Layoff, or Article 30, Discipline and Dismissal.~~
1. The appointment or reappointment of NSF shall have a definite beginning and ending date. Such appointments shall terminate on the last day of the appointment set forth in the letter, as provided in Section B., below.
2. Except as provided for in this MOU, the University has the sole discretion in regard to appointment and reappointment decisions and has no obligation to reappoint an NSF following the expiration of an appointment.
3. Except as provided for in this MOU, the University has the sole discretion to make determinations regarding: **the regularly scheduled time and location of a course**, who teaches a course, the duration of an appointment, the assignments of an individual, and the assessment of performance. Such decisions are not subject to the grievance or arbitration provisions of this Agreement except to the extent they reflect or result from University actions that are, themselves, grievable and arbitrable.
4. **An NSF appointment may be terminated prior to the established ending date only in accordance with Article 16, Medical Separation, Article 17, Layoff, or Article 30, Discipline and Dismissal.**
5. **NSF may be appointed to a quarter or semester-based appointment or to an academic-year appointment, in accordance with Article 6 - Academic Year, Appointments.**
6. Whenever possible, the University will consult with an NSF before making course assignments or reassignments.

7. Upon request, a department, program or unit shall provide an NSF access to her/his classroom observation reports, if any, and student evaluations in a timely manner.
 8. When an NSF teaches a course that is cross-listed with another department, program, or unit, the NSF may request to receive credit toward continuing status in either, but not both, departments, programs or units. The granting of this request shall be at the sole non-grievable discretion of the University, following consultation with both department chairs, chair equivalent, or designee.
 9. At the sole, non-grievable discretion of the University, a campus may establish joint appointments, such that an NSF teaching in two (or more) departments at a campus can receive employment credit towards continuing review in the home department for work done in either or both departments.
 10. When practicable, the University shall electronically post NSF job opportunities at: <http://www.ucop.edu/academic-personnel-programs/programs-and-initiatives/academic-job-openings/index.html>.
- B.**
1. At the sole, non-grievable discretion of the University, a campus may accept, at the written request of a NSF, up to a maximum of three (3) quarters, two (2) semesters, or four (4) quarters for fiscal year appointees from another UC campus in the same or similar discipline, on a one-time basis, as credit toward excellence review eligibility, in accordance with the following criteria:
 - a. The NSF shall not have concurrent appointments at multiple UC campuses.
 - b. The NSF shall make the request at the time of hire at the new campus, but no later than twelve (12) months from the date of hire.
 - c. If such credit is granted, no further consideration for subsequent transfer to another campus by the same NSF would be considered by the University.
 2. The term credit, if granted, will be considered for no other purpose including consideration for the 4th year increase in Art.7a.

3. *The chair or designee retains the sole, non-grievable authority to determine whether to accept any term(s) for credit, whether partial or whole; and has the right to review past materials, including evaluations, from the NSF's file at the former campus.*
4. *This provision is prospective and not retroactive.*

C. LETTERS OF APPOINTMENT

1. Letters of appointment or reappointment shall be issued to academic year appointees by June 1st or as soon thereafter as practicable for courses being offered the next academic year and shall be consistent with this Agreement.
2. Letters of appointment or reappointment shall be issued to appointees with quarter or semester appointments no later than thirty (30) calendar days prior to the commencement of the service period, or as soon as practicable thereafter, and shall be consistent with this Agreement.
3. When the University appoints or reappoints an NSF, s/he shall be informed in writing of:
 - a. the title of the position;
 - b. the salary rate;
 - c. the name of the employing department, program or unit;
 - d. the period(s) for which the appointment is effective;
 - e. the percentage of time;
 - f. the nature of the appointment and the general responsibilities;
 - g. the name of the department chair, program head or other person to whom the NSF reports; ~~and~~
 - h. the fact that NSF are represented by a union, the UC-AFT;
 - i. the fact that the terms and conditions of the appointment are contained in the Agreement; and

- j. the Web Site addresses of both the University and the Union, including a link to the MOU.

D. ~~INITIAL APPOINTMENT AND REAPPOINTMENT~~ PRE-SIX APPOINTMENTS

1. When the University appoints NSF in their first six years of employment, the parties recognize that it does not do so intending that they will or will not achieve Continuing ~~Appointment~~ status or Continuing Appointments. The parties also recognize that legitimate practices or programs or needs may exist, or be established (including time-limited positions) that may have an effect of limiting pre-six year lecturer access to Continuing status or Continuing Appointments. Nevertheless, the University will not engage in activities or establish practices and/or programs that preclude Pre-Six year NSF access to Continuing status or Continuing Appointments.
2. The University has the right to make appointment and reappointment decisions based on considerations that include but are not limited to:
 - a. the implementation of programs that have time-limited positions, insofar as such programs adhere to their stated academic goals and pass through documented regular academic consultative processes;
 - b. a pedagogical program dependent upon varied perspectives or pedagogy, insofar as the program does not deny consideration to NSF on an individual basis and passes through documented regular academic consultative processes; and/or
 - c. The employment of other academic appointees in order to accomplish the University's academic goals as long as any actions taken pass through documented regular academic consultative processes and do not violate this MOU.

E. INITIAL APPOINTMENT

1. The initial appointment may be for a period of up to two (2) academic years.
2. The duration of an appointment or augmentation of the existing appointment is at the sole discretion of the University, unless otherwise provided for in this MOU. Reductions of the existing appointment percentage shall be in accordance with Article 17, Layoff.

3. **The input of qualified Continuing NSF in the appointment process is encouraged, but not required.**
4. The NSF is expected to perform her/his duties in accordance with the provisions of Article 3, Academic Responsibility.

F. REAPPOINTMENT

1. When the University is considering an NSF for a reappointment, the following procedures shall apply:
 - a. Provided need exists for pre-six year NSF, a decision to reappoint or not to reappoint an NSF who has requested consideration shall be preceded by an assessment of the performance of the NSF. This assessment shall be undertaken in accordance with each department's applicable procedures for assessment of pre-six year appointees in effect at the time of the assessment. The input of qualified ~~post-six year~~ **continuing** NSF in the assessment process is encouraged, but not required.
 - b. NSF shall be notified of ~~the review criteria~~, the form of assessment that the department, program or unit will follow for reappointments, and when the assessment will occur. **The University will post the review criteria from Article 7a.F.1. online on a central campus website.**
to NSF PA
 - c. Assessments of individual NSF for reappointment are to be made on the basis of demonstrated competence in the field, ability in teaching, academic responsibility and other assigned duties that may include University co-curricular and community service.
 - d. An NSF may provide letters of assessment, including letters from NSF or Senate Faculty, and other relevant materials to the department chair or her/his designee as part of the assessment process. Due consideration will be given to all relevant materials in the academic review/personnel file, if any.
2. Reappointment(s) during the first six (6) years of employment at the same campus may be for a period of up to three (3) academic years.
3. Upon reappointment to a fourth year of service within the same department, program or unit, the University shall grant a salary increase of

at least ~~two steps~~ **six percent (6%)** to any NSF who has not received a prior within-range salary increase of at least ~~two steps~~ **six percent (6%)**. The University is not precluded from granting an NSF an increase of more than ~~two steps~~ **six percent (6%)**.

4. When making a reappointment decision, the University will not replace an individual NSF who has received a within range salary increase with a lower paid NSF solely to reduce salary costs. This subsection shall only apply to those instances where the lower paid NSF is teaching the same courses as the higher paid NSF.

G. GRIEVABILITY AND ARBITRABILITY

1. Subject to the limitations set forth in this Article, allegations of procedural violations of this Article shall be subject to the full Grievance and Arbitration provisions of this Article. An arbitrator reviewing procedural violations shall have the authority to order the University to redo the procedure.
2. Non-reappointment decisions are not grievable unless the grievance alleges a procedural violation or a violation of the prohibition on **Continuing status or Continuing Appointment** ~~post six year~~ avoidance in Section ~~G.D.1.~~, or ~~G.4.d.F.4.~~, above. Allegations that the University made a reappointment decision in violation of an NSF's academic freedom rights or for a discriminatory reason may only be pursued through Article 2 – **Academic Freedom** or Article 4 – **Non-discrimination in Employment**, respectively.
3. An arbitrator reviewing a grievance under this Article shall have no authority to order the University to appoint or reappoint an NSF. An arbitrator reviewing a non-reappointment decision shall not have the authority to substitute her/his judgment for the University's judgment with respect to the University's academic needs or an individual NSF's performance or qualifications. In those instances where the University's decision or action was based on an NSF's performance, the arbitrator shall have jurisdiction to review the NSF's academic review/personnel files, if any.
4. **Special Enforcement Provisions For Allegations of Continuing status or Appointment** ~~Post Six Year~~ Avoidance

The following provisions apply to grievances alleging that the University has violated Section ~~G.D.1.~~, or ~~G.4.d.F.4.~~, above. Only the Union, and not

individual NSF, may submit grievances alleging a violation of Sections ~~C~~D.1., or ~~C.4.d.F.4.~~, above.

- a. In any grievance involving Section ~~C~~D.1., the Union shall have the burden to provide evidence of a policy or practice that restricts access to Continuing status or Continuing Appointments in violation of Section ~~C~~D.1., above.
- b. When the Union alleges a violation of section ~~C~~D.1., and the University asserts that its decision comported with ~~C~~D.2.a., b., and/or c., the arbitrator may consider if the University's action was ~~not in conformance with section C.2.a., b., and/or c., and therefore was only a pretext for~~ Continuing status or Continuing Appointment ~~post-six-year~~ avoidance.
- c. In any grievance involving Section ~~C.4.d.F.4.~~, the Union must provide the following information within forty five (45) calendar days of the date on which the Union knew or should have known a violation occurred:
 - 1) the name of the NSF who was not reappointed;
 - 2) the department where the NSF has an appointment;
 - 3) the courses taught by the NSF who was replaced;
 - 4) the name of the lower-paid NSF who replaced the higher-paid NSF; and
 - 5) the courses taught by the lower paid NSF.
- d. Arbitrator's Remedial Authority

If an arbitrator finds that the University has violated the prohibition on Continuing Appointment ~~post-six-year~~ avoidance set forth in Section ~~C~~D.1., or the provisions of Section ~~C.F.4.d.~~, above, her/his remedial authority shall not exceed ordering the University to immediately discontinue the practice or policy and consider the adversely affected NSF(s) for a reappointment. Upon the request of either party, the arbitrator may retain jurisdiction to ensure that the University has complied with her/his award.

