



**UNIVERSITY SENATE
Faculty Affairs and Personnel Committee**

**Report and Recommendations on the
Status of Full-time, Non-tenure-track, Non-clinical Faculty**

1. THE CHARGE

The charge initially involved only teaching faculty. The Faculty Affairs and Personnel Committee (FAPC), however, realized during their deliberations that most issues are common with non-tenure-track (NTT) research faculty appointments, thus the charge was amended by the Executive Committee as follows:

*S-0502: **Status of Full-time, Non-tenure-track, Non-clinical Faculty:** Review the status of full-time non-tenure-track faculty who are not clinical faculty, including teaching as well as research faculty. Consider whether changes in university regulations or policies should be proposed that would provide improved conditions for full-time, non-tenure-track, faculty with respect to length and continuity of appointment, reappointment, performance evaluation, governance rights, and access to internal research funding, in order to enhance the delivery of high-quality undergraduate education by this group of faculty. Recommend specific policy changes as appropriate. Recommend guidelines and general principles for proposals that might be formulated by the administration on these matters.*

Subsequently, the issue of governance rights was removed from the charge and was charged separately to the *University Structure and Governance Committee*.

2. SUMMARY

The FAPC was asked to review the status of Full-time, Non-tenure-track (NTT), Non-clinical Faculty, and submit appropriate recommendations for the approval of the senate. Having done so, the FAPC recommends the following actions to the University Senate:

The senate should recommend to the Board of Governors (BOG) the amendment of University Policy Section 60.5.10 so that the restriction to three successive reappointments for NTT faculty is abolished.

The senate should recommend to the administration annual contract reappointments for NTT faculty for the first three years with an option for 3-year reappointments thereafter following a dean's level review. The Senate should further recommend that the Executive Vice President for Academic Affairs (EVPAA) remind all academic units that annuals, as well as tenure-track faculty, should be reviewed in considerations of eligibility for FASIP. In addition, faculty that

support research annuals should be strongly advised to include monies for such awards in the grant budget.

Finally, the senate should recommend that instructional and research annuals are made eligible to apply for both internal and external grants and that the administration utilizes some process for reminding chairs to submit notice of reappointment by the June 30 deadline and for making employees aware on issues of benefits eligibility, availability, and the term of coverage.

3. **REPORT AND RECOMMENDATIONS**

3.I. **Current Status**

Currently there are 663 faculty appointed on a Non-Tenure-Track (NTT) basis. These are distributed as follows:

Non-tenure track:	
instructors	177
lecturers	52
assistants	11
librarians	14
research annuals	336
clinical (not part of charge)	73
Total:	663

Instructorships are essentially temporary appointments used to fulfill certain roles in departments or units, such as undergraduate teaching of introductory courses. Annual appointments are highly varied in responsibilities and sources of support. The number of annuals hired depends on the unit and may be referred to under different titles. Hills professors, for example, are considered to be internships but essentially function as annual faculty. University Policy Section 60.5.10.E states that “*Lecturers are officers of instruction whose connection with the University is temporary or whose service is discontinuous.*” Although these individuals are in contact with large number of students each year, they are not in a career track and are not in an environment that fosters professional development.

Currently NTT appointments, other than clinical, tend to be limited to a total of four years. The relevant University Regulation specifically limits Instructor reappointments to three. Over the years this has been interpreted that *all* NTT appointments are limited to four years (“the four-year rule”).

University Policy Section 60.5.10 on term appointments at the relevant portion¹ states:

“A. *Appointments to the rank of instructor and assistant professor are made for limited terms with the understanding that deans and directors of academic units of the University will give faculty members written notice of non-reappointment in conformity with Section 60.5.12 (formerly Book 3.3.16), the University policy on “Notice.” Instructorships are essentially temporary appointments. Experience has demonstrated that if any individual is permitted to hold a temporary position for a considerable length of time, a presumption of indefinite continuance develops, both in a person's mind and in that of his or her colleagues, regardless of all official statements to the contrary, and for this reason the University limits instructors to three successive reappointments.*”

Compliance with the four-year rule varies widely across the University, as does established practice with respect to issues such as access to FASIP and governance rights.

3.II. Summary of Committee Deliberations

The committee met and discussed the charge in four sessions, on 3/24/06, 4/28/06, 9/29/06 and 10/27/06. The draft submitted to the Executive Committee was the result of interim deliberations and votes and was circulated to the membership by e-mail prior to submission.

The committee included in their deliberation the Executive Vice President on Academic Affairs, and interviewed Brenda Lewis, Benefits Manager, Human Resources, Richard Moser, Staff member of the AAUP, two Lecturers, and one Research Assistant Professor. In addition, two annual faculty, one a 33-year veteran, are valuable members of the FAPC.

One of the co-chairs interviewed the chair of the English department that employs the largest number of NTT faculty in the University.

The committee proposes the following recommendations:

3.III. Recommendations

For adoption by the University Senate

3.III.A. Recommendation to the Board of Governors

Recommendation 1:

The University Senate recommends to the BOG the amendment of University Policy Section 60.5.10.A by the elimination of all language beginning with “Instructorships are essentially temporary appointments” and ending with “limits instructors to three successive reappointments” so that the restriction to three successive reappointments for NTT faculty is abolished.

¹ http://policies.rutgers.edu/PDF/Section60/60_5/60.5.10.pdf

The initial intent of the four-year-rule was two-fold and was agreeable to both the administration and the AAUP. In terms of the administration, there was concern “*that if any individual is permitted to hold a temporary position for a considerable length of time, a presumption of indefinite continuance develops*” resulting in subsequent claims by the appointee of *de facto* tenure. On the part of the AAUP, and the faculty in general, it was considered that putting limits to the length of appointments on NTT faculty would safeguard against proliferation of such appointments at the expense of tenure-track faculty appointments.

Currently neither of these concerns is valid:

- In terms of safeguarding against claims of *de facto* tenure, the issue has been cleared by a court ruling. In *Kovats v. Rutgers University*, 749 F.2d 1041 (3rd Cir. 1984), cert. denied, 489 U.S. 1014 (1989), the Federal Court ruled that only the Board of Governors can confer tenure and that claims of *de facto* tenure were without legal merit.
- In terms of safeguarding against the proliferation of NTT appointments, the four-year rule as a strategy has been shown to be completely ineffective. According to the figures obtained from the AAUP, at Rutgers, NTT positions have increased 72% from 1997 to 2006. During this period tenure-track appointments actually *declined* by 4%. As of 2006, 24% of the full time faculty fill NTT positions, which is greater than the national average where, to our knowledge, restrictions on NTT appointments are not universal. Nationwide, governance bodies and academic unions are shifting from a policy that relied solely on resistance to long-term NTT appointments toward seeking more stable employment, enhanced governance rights, and professional development for those colleagues already filling these lines, while limiting new NTT appointments and advocating for more tenure-eligible lines.

In addition, non-compliance with the four-year rule is by no means unknown in the University. The means of circumventing the four-year rule render the situation both disruptive to faculty careers and administratively wasteful. While some departments scrupulously apply the rule and penalize themselves and their students by losing highly valued instructors, others find means to circumvent the regulations. Typically an Instructor would be given less than full-time work, thereby losing health benefits, for one semester or a year, only to be rehired for another sequence of four years after that. When contingent faculty members are terminated or transferred, mentoring and advising, and other aspects of the student-teacher relationship are disrupted and damaged.

3.III.B. Recommendations to the Administration

Once the four-year rule is abolished, the road is cleared for a reasonable policy that is administratively flexible and addresses the personal and professional needs of the NTT faculty. A multi-tiered faculty is now an institutional reality. It has become painfully obvious that the University must treat this group of instructional professionals in a more academic manner. It is essential to enhance the stability, job security, and professional development for faculty serving in annual appointments. Concomitant to this issue, the number of new hires of NTT faculty must be limited with renewed emphasis to hire more tenure-eligible lines.

3.III.B.1 Option for Multiyear Contracts

Recommendation 2:

For non-tenure-track faculty, other than clinical, the senate recommends annual contract reappointments for the first three years with an option for 3-year reappointments thereafter following a dean's level review.

In terms of administrative flexibility, several department chairs, especially those chairing departments employing large numbers of NTT faculty, would more than welcome not having to put in the paperwork every single year for NTT faculty they know they will absolutely need for the foreseeable future with funds that are substantially committed. By the same token, the availability of funds for NTT hires over a period of three years may not be obvious in some departments. The above recommendation gives department chairs the administrative flexibility to offer, or not to offer, multiyear contracts. It is felt that a review at the decanal level should precede such appointments.

In terms of the NTT faculty, availability of 3-year contracts is advantageous in several ways. Individuals on annual contracts cannot apply for mortgages and lose out on other personnel advantages. In addition, if departments miss reappointment deadlines, benefits may be delayed and would have to be applied retroactively². The advantage of relative job security is obvious as is the advantage to student advisees whose relationship with the NTT faculty is predictable over a reasonable period of time.

3.III.B.2 Access to Merit Increases (FASIP)

Regarding salary, compensation follows a scale specified for Instructors or Research Associates in the University-AAUP contract; salary increases may be given as steps. Annuals are technically eligible for FASIP; *whether they receive such an award, however, depends on their department or unit.* In testimony given before the FAPC, an assistant research professor stated that FASIP increases are rarely bestowed and only when there is sufficient funding in the pool following awards given to tenure-eligible faculty. In the Department of Physics & Astronomy, the Department of English, and the Rutgers University Libraries, on the other hand, all full-time annuals are included in the process for such merit increases. For grant-funded research faculty, however, monies for merit increases must be included in the relevant grants. Once annual personnel leave a department, monies for FASIP cannot be reserved and used to boost the salaries of other annuals. We feel that practice should follow the rules and recommend the following:

Recommendation 3:

The senate recommends that the EVPAA remind all academic units that annuals, as well as tenure-track faculty, should be reviewed in considerations of eligibility for FASIP. In

² See appendix for a more thorough treatment of benefits and deadlines

addition, faculty should be strongly advised to include monies for such awards in grants that support research annuals.

There is an additional advantage to such an annual review. The need for an evaluation of the NTT faculty is both for the benefit of the evaluating department, as well as for the NTT faculty member. Evaluation of faculty is a standard process used to measure and enhance professional growth. This process is especially critical for teaching annuals that spend many contact hours with students. The evaluation process varies widely among units. For example, there is no formal evaluation process for research annuals in the Thomas A. Edison Papers. Evaluations in other units such as English may include semi-semester “folder reviews,” which include student evaluations, by faculty assigned such tasks. With budget constraints, individuals responsible for such reviews in the English department are not being reappointed, so evaluations are not as rigorous as they need to be. In other units, evaluations are more formal reviews conducted by unit directors or committees of tenured faculty within the department. Some units rely more heavily on student evaluations than others. There is a sense of frustration among annual faculty who lack regular feedback on their performance. Including NTT faculty in FASIP evaluations would make available, to the chair who is charged with an annual review of the department’s NTT faculty, the materials submitted to the Peer Evaluation Committee (PEC), as well as the PEC’s assessment and possible ranking.

3.III.B.3 Access to Grants and Travel Funds

Internal grants are monies set aside to initiate new activities that will be eventually supported from sources outside the University. These funds are important to faculty for professional development, but the University’s position is that these funds are not available to temporary employees.³ Relaxing the four-year rule, however, and giving the option to departments of multi-year contracts retracts from the merits of such a restriction.

In an effort to create a more stable, academic work environment for annual employees, funding for curriculum development, research, or travel is essential. The FAPC considered the proposal of recommending special funds earmarked for NTT faculty and eventually rejected it. Such funding at the department level is meager; throughout the University, departmental money for research, curriculum development, and travel is virtually non-existent. Much of the money that is available is distributed as seed money to faculty with the greatest likelihood of obtaining further grants. We believe that this practice is sound but recommend that NTT faculty are allowed to apply for these funds, on a competitive basis, along with their tenure-track colleagues. To make use of such seed money NTT faculty should also be allowed to apply for external grants. Grants for Curriculum Development, for example, are increasingly common and it

³A *Manual for Research and Sponsored Programs 1990* states:

“II. Eligibility for Internal Funding

For most of the internal programs, only full-time members of the Rutgers faculty may apply for support. *The following are not eligible to apply: faculty appointees below the rank of assistant professor (or the equivalent), coadjutant appointees, part-time appointees, teaching and research assistants, visiting professors, persons on one-year appointments, and persons whose salaries are paid from grants or contracts.*”

<http://orsp.rutgers.edu/downloads/standards/manual1990.pdf>

behooves the University to utilize the significant talent and expertise that is present among its NTT faculty.

Recommendation 4:

The senate recommends that instructional and research annuals are made eligible to apply for both internal and external grants.

3.III.B.4 Deadlines and Awareness of Benefits

Although HR does sponsor Q&A sessions for employees, not all employees are aware of these. Firm notification of employees concerning benefits eligibility, availability, and the term of coverage is essential. In addition a process is needed for reminding chairs to submit notice of reappointment by the June 30 deadline to avoid complications with continuation of benefits.

Recommendation 5:

The senate recommends that the administration utilizes some process for reminding chairs to submit notice of reappointment by the June 30 deadline and for making employees aware of issues of benefits eligibility, availability, and the term of coverage.

4. RESOLUTION

In Support of the FAP Committee's Report and Recommendations

Whereas, the University Senate Faculty Affairs and Personnel Committee has examined and reported on the status of the Status of Full-time, Non-tenure-track, Non-clinical Faculty; and

Whereas, the University Senate has reviewed the Committee's report and its Recommendations, finding those recommendations to be sound and in the best interests of Rutgers University;

Therefore, Be It Resolved, that the Rutgers University Senate endorses the "Report and Recommendations on the Status of Full-time, Non-tenure-track, Non-clinical Faculty" and urges the Administration to implement its recommendations, as amended by the Senate.

Faculty Affairs and Personnel Committee 2006-07

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APPENDIX I: Some data on benefits

A representative from University Human Resources addressed the committee on benefits issues for NTT faculty with academic year (AY) appointments.

- **Medical and Dental:**
 - For initial appointments: medical and dental health benefits (with payroll deduction) for academic year appointments are covered for the entire year as long as appointment paperwork is completed by October 5 (health benefit is retroactive to Sept. 1). Extra payroll deductions are withheld each June for July and August coverage. Appointments made after October 5 are off-cycle, and enrollment occurs at various dates after the appointment. Medical plans available are Traditional (must be hired prior to July 1, 2004), NJ Plus, or one of the HMOs. The prescription drug plan and vision care follow the same schedule.
 - For reappointments: Health coverage for NTT positions not reappointed by June 30 ends on August 31. Faculty may take advantage of COBRA for an additional 18 months after Sept. 1. In some cases, reappointment is not made until August, which means the benefit must be made retroactive.
 - Part-time employees are eligible for NJPlus and the Caremark prescription drug plans. Payroll deduction is not available for such employees.
- **Pension plans:** most NTT faculty are in ABP, although some may be in PERS. For initial appointments, extra deductions will be removed from the first September paycheck to cover the following July and August. However, if the position will not be reappointed, no pension is withheld from pay (no salary or pension benefits after June 30; medical benefits continue until August 31).
- **Life insurance** follows a schedule similar to that of pension benefits; however, if not reappointed by June 30, insurance is covered only until July 31.
- **Sick leave and vacation:** no paid vacation for academic year appointments; one month for calendar year appointments” in keeping with the AAUP collective agreement.; it is up to the department to close ranks when NTT faculty are out on sick leave.
- **Tuition remission:** NTT personnel are eligible for tuition remission if hired full-time as of the first day of classes. Faculty members are eligible for tuition remission for themselves (graduate or undergraduate) only if they are appointed at the rank of associate or below. Tuition remission for children (undergraduate) is 100%.