

VIAE-MAIL

July 29, 2014

TO: The College Presidents
The Deans of the CUNY-wide and Professional Schools

FROM: Vice Chancellor Gloriana B. Waters 

SUBJECT: Implementation of the Revised Statement of Policy on Multiple Positions

At its meeting on June 30, 2014, the Board of Trustees approved a revised *Statement of Policy on Multiple Positions* (Attachment 1). The revised policy, which was effective upon adoption, contains one important change: Section 2.d ("Within the University – Summer Activities") has been revised to include the following statement:

During the first three summers of a faculty member's employment at The City University, the President of a College or a Vice Chancellor, as appropriate, may authorize payment to a faculty member to conduct his/her research during the summer from tax-levy funds, subject to the same total three-ninths limitation for all summer activities noted above.

The purpose of this memorandum is to provide guidance on the proper interpretation and implementation of this change, as well as to review the applicable rules that have been enunciated in previous guidance. The specific guidance relating to the new provision appears in Section V below.

I. Covered titles

The *Revised Statement of Policy on Multiple Positions* continues to apply only to full-time faculty. It does not apply to adjunct faculty, nor does it apply to other full-time members of the instructional staff, such as employees in the Higher Education Officer series, the College Laboratory Technician series, or Research Associates and Research Assistants.¹

¹ Notwithstanding, the Policy does apply to these individuals if the college's Governance Plan accords faculty rank or faculty status to employees in these titles. Rules governing multiple positions by employees in these titles have been promulgated by the Office of Human Resources Management.

II. Employment, consultative, or other work outside the University

Faculty members who wish to engage in outside employment, consultative work, or other work must receive prior approval. The faculty member must provide to the Department Personnel and Budget Committee the following information:

- His/her total academic commitment,
- The proposed employment, consultative or other work and
- Information regarding previously approved outside employment.

If the Department Personnel and Budget Committee approves the requested employment, consultative work or other work, the Department Chairperson must determine the amount of time that the faculty member may expend on the activity, subject to review by the President. In no event may the amount of time spent on such outside employment, consultative work or other work exceed an average of one day per week (*i.e.*, seven hours) or its equivalent during the academic year.

Section 2.a requires that a faculty member who engages in work external to the University include within any written agreement with a third party governing such arrangement the following five (5) principles: (a) the faculty member is serving in his or her individual capacity and not on behalf of the University, and the University's name may not be used in connection with the faculty member's services without the written permission of the University; (b) the faculty member's primary employment responsibility is to the University and he or she is bound by the University's policies, including those related to external work; (c) in executing the external work the faculty member may not make substantial use of the University's resources without the written permission of the University; (d) no relationship or agreement between the faculty member and the third party may grant rights to intellectual property owned by the University and/or the Research Foundation without their written authorization; and (e) the third party may not restrict the faculty member's ability to engage in research as an employee of the University, limit his or her ability to publish work generated at or on behalf of the University, or infringe on the faculty member's academic freedom.

III. Overload Teaching within the University

When a college wishes to engage the services of a full-time faculty member of another college, the principal academic or administrative officer of the requesting college must make a request and receive approval from the principal academic officer or administrative officer of the other college. To the extent possible, these requests should be achieved through an exchange of services or by budgetary interchange and should not result in additional academic workload or additional remuneration for the faculty member. However, the President or the Chancellor may approve variations from this norm.

The policy makes important distinctions between the opportunities to work overload assignments² applicable to full-time non-tenure-track faculty and tenured faculty, on the one hand, and to full-time, non-tenured, tenure-track faculty, on the other.

A. Full-time non-tenure-track faculty and tenured faculty

Section 2.b permits full-time non-tenure-track faculty, including Instructors and Lecturers, and tenured faculty to be eligible for overload assignments. The general rule is that such faculty may be assigned up to a maximum of eight (8) total classroom contact hours over the fall semester and the spring semester. In addition, such faculty may be assigned up to an additional six (6) classroom contact hours during the academic year in courses that are offered: (a) during the winter session; (b) exclusively on Saturdays or Sundays; or (c) as part of on-line degree programs.

B. Full-time non-tenured tenure-track faculty

Section 2.b.4 prohibits overload teaching assignments for full-time non-tenured tenure-track faculty, except where the faculty member is not currently using the contractually-mandated research reassigned time, and then only with the special permission of the Chancellor or the appropriate President.

IV. Overload non-teaching assignments within the University during the academic year

As a general rule, faculty may not receive extra compensation during the academic year for research, consulting, or any other employment with The City University or any of its affiliated organizations, regardless of the source of the funds. Grant funds may be used during the academic year to compensate the college for reassigned time to facilitate the faculty member's research during the academic year. The exception to this rule for teaching overloads is covered in Section III supra.

In addition, where special circumstances of an urgently needed short-term administrative and/or service assignment exist, a President or Vice Chancellor may authorize specific additional compensation to compensate a faculty member whose services are required as an overload. These assignments are limited to 150 hours per semester at the non-teaching hourly rate, or a total of 300 hours for the entire academic year.³ Although all full-time faculty may be considered for such assignments, the assignment of a non-tenured tenure track faculty member is discouraged and may only be approved in exceptional circumstances and then only during a semester when that faculty member is not using contractually-mandated reassigned time.

²An overload assignment is a teaching assignment in excess of the full-time, non-tenure-track or tenured faculty member's contractual teaching workload as set forth in the current collective bargaining agreement.

³Teaching overload assignments and non-teaching overload assignments must be aggregated pursuant to a formula to determine the maximum number of extra hours that may be worked. See Section VII infra.

V. Summer Activities

Sections 2.d and 5 concern faculty assignments during the summer annual leave period. The new language in Section 2.d, adopted by the Board at its June 30, 2014 meeting, provides an opportunity for a President or a Vice Chancellor, as appropriate, in his/her discretion to authorize tax-levy compensation during the summer to support a faculty member's research during the first three summers of a faculty member's appointment to the University. The impetus for this provision is to augment the University's ability to recruit and retain faculty with promising research capabilities, particularly, although not exclusively, in the STEM disciplines. This tax-levy research compensation is subject to the same limitations as other summer activities, as detailed below. The payment mechanism is the same as the payment mechanism for grant-funded research activity over the summer.

All of the provisions in Section 2.d are predicated upon the presumption that the faculty member has the summer annual leave period prescribed by the collective bargaining agreement for teaching faculty. Special consideration, therefore, must be given to harmonize the new provision with the contractual working conditions of librarians because, unlike teaching faculty, they earn between 20 and 30 annual leave days per year that can be scheduled throughout the year. In addition, a limited number of Library Reassignment Leaves with pay of up to five weeks duration are available to librarians. Therefore, it is possible for a librarian, with appropriate supervisory permission, to schedule annual leave during the summer months and also to receive one of the limited Library Reassignment Leaves during the summer months. In such a case, a librarian could be eligible for a pro-rata amount of tax-levy research support compensation during a block of annual leave scheduled in the summer and/or a Library Reassignment Leave, if approved, provided that a President or a Vice Chancellor, in his/her discretion, were to authorize the funding.

Summer tax-levy research compensation is provided at the discretion of the President or a Vice Chancellor, as appropriate: There is no application process. A faculty member who is designated to receive tax-levy summer research compensation must provide the President or the Vice Chancellor, a description of the research that will be conducted during the summer prior to commencement of the research. By the end of September, the faculty member must provide a report regarding the progress that was made on the research during the summer.

Aside from the new language, the provision of Sections 2.d and 5 continue as previously. The mechanisms for payment remain the same: for teaching, faculty are compensated using the appropriate contractual hourly teaching rate; for non-teaching assignments, faculty are compensated using the appropriate contractual hourly non-teaching rate (supported by timesheets); for service during the summer as department chair, faculty are compensated using the contractual formula; for work on a grant administered by the Research Foundation, faculty are compensated based upon the percentage of annual salary they devote to the grant (typically one-ninth, two-ninths, or three-ninths). In total all such summer activities continue to be limited to three-ninths (3/9ths) of the faculty member's full-time CUNY salary. There are additional restrictions where it is anticipated that the faculty member will devote 100% of effort to the

activity during a particular period of time. For example, if a faculty member is reimbursed one-ninth of annual salary from a grant for work in the month of July, that is an indication that he/she is devoting 100% of effort in July to the grant. Therefore, he/she would not generally be eligible for any other assignment during the month of July. Similar considerations apply to payment as a Summer Chairperson. Faculty members are required to submit the Summer Assignments Reporting Form (Attachment 2) that details his/her proposed summer activities in advance of participating in them to ensure that the three-ninths maximum is not exceeded. There is one exception to the 3/9ths rule: a college foundation may pay faculty for research or additional work during the summer, in an amount that will cause the 3/9ths limitation to be exceeded, when three conditions are met: (a) such payment is consistent with the applicable college foundation's rules; (b) the circumstances surrounding such payment have been rigorously documented and justified; and (c) such payment has been approved by the Chancellor or the appropriate President. When the faculty member receiving such additional compensation from the college foundation is also working on a grant administered by the Research Foundation, the faculty member must consult with the Research Foundation to ensure that the additional compensation does not violate the terms of the grant. A copy of the Multiple Position Policy Summer Calculator accompanies this e-mail.

VI. Faculty on Leave

Section 3 clarifies the University's policy on employment by faculty on approved leaves. When faculty members are granted leaves of absence, they are expected to devote their time and energy to the purposes for which the leave is granted. Thus, as a general rule, employment within or outside of the University during leaves of absence is prohibited, unless such involvement is integral to the purpose for which the leave is granted. Employment either within or outside of the University during a leave of absence requires the approval of the President. Notwithstanding the foregoing, faculty on Travia Leave may be employed outside the University with prior notice to the President, provided that they agree, in writing, to an irrevocable commitment to retire at the end of Travia Leave. Section 3 also makes clear that, for multiple position purposes, Fellowship Leaves and Scholar Incentive Awards will cover periods within the boundaries of the academic year but not the summer annual leave period.

VII. Multiple extra involvement

Section 4 provides guidance on how to calculate the maximum hours of combined teaching and non-teaching overload assignments that may be made available to a faculty member, assuming compliance with the requisite justifications set forth in the revised policy. To that end, from the beginning of the fall semester until the day after spring commencement, for full-time non-tenure-track and tenured faculty, the total extra involvement cannot exceed 14 classroom contact hours of extra teaching (as set forth in Section 2.b.2 and 2.b.3 combined), a total of 210 "clock" hours, or 300 hours of extra consultation or non-teaching adjunct work (as set forth in Section 2.c), or a proportional combination of these two types of activities. The formula for determining how many hours of a non-teaching assignment are available is the following: The maximum number of teaching "clock" hours minus the actual number of teaching hours performed during the academic year divided by .6. For example, a faculty member who is assigned 12 classroom contact hours during the academic year would work 180 hours teaching (12 times 15), and would

be eligible to work an additional 50 non-teaching hours, applying the formula: $(14 * 15) - (12 * 15) / .6 = 50$.

VIII. Multiple Position Form

All full-time faculty members, including faculty members on leaves other than long-term disability leave, must fill out the Multiple Position Report (Attachment 3) each semester and update the form if changes occur during the semester. The form requires the faculty member to detail activities within and outside of CUNY that are in addition to his/her regular, full-time employment at the college. Compensated and uncompensated activities outside of CUNY require approval of the Department Personnel & Budget Committee, the Department Chairperson and the President.

If you have any questions, please call Raymond F. O'Brien at 646.664.3256 or Sahana Gupta at 646.664.3257. Thank you.

Attachment

c: Chancellor James B. Milliken
Cabinet
Chief Academic Officers
Chief Administrative Officers
Chief Student Affairs Officers
Labor Designees
Human Resources Officers
Ms. Ethelyn Clark
Ms. Deborah Bell