ARTICLE 7a

NSF APPOINTMENTS

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 create an entitlement to 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.

2. 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, provided in §B., below.

3. 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. **[1]**

4. Except as provided for in this MOU, the University has the sole discretion to make determinations regarding: 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. **[2]**

5. One (1) year of employment is defined as three (3) quarters or two (2) semesters for academic year appointees, and four (4) quarters or equivalent for fiscal year appointees, at any percentage in any unit title in the same department, program or unit at the same campus. **[3]** For the purposes of this MOU, Summer Sessions are not considered part of the regular academic year, and are neither an academic quarter nor semester, nor portion thereof.

6. The UC-AFT and the University agree that the University will allow pre-six year NSF who do not have a continuing appointment on a campus may request a one-time allocation of additional credit for quarters or semesters taught in other departments on the same campus. The program details are outlined in Appendix H.

7. Whenever possible, the University will consult with an NSF before making course assignments or reassignments. **[4]**

B. LETTERS OF APPOINTMENT

1. Letters of appointment or reappointment shall be issued on June 15th or as soon as practicable for courses being offered the next academic year and shall be consistent with this Agreement. **[5]**

2. 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; **[6]**

   c. the name of the employing department, program or unit;

   d. the period(s) for which the appointment is effective; **[7, 8]**

   e. the percentage of time; **[9]**

   f. the nature of the appointment and the general responsibilities; **[10, 11]**

   g. the name of the department chair, program head or other person to whom the NSF reports; and

   h. the Web Site addresses of both the University and the UC-AFT.

C. INITIAL APPOINTMENT AND REAPPOINTMENT

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. The parties also recognize that legitimate practices or programs or needs may exist, or be established (including time-limited positions **[12, 13]**) that may have an effect of limiting pre-six year lecturer access to Continuing Appointments. Nevertheless, the University will not engage in activities or establish practices and/or programs for the purpose of denying to pre-six year NSF access to 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 regular consultative processes; **[14, 15, 16]**

   b. the need to infuse new perspectives or pedagogy, **[17]** insofar as such need does not preclude giving consideration to NSF on an individual basis and pass through regular consultative processes; and/or

   c. the need to employ other academic appointees in order to accomplish the University's academic goals as long as any actions taken in furtherance of such requirements do not violate this MOU and pass through regular consultative processes.

3. Initial Appointment

   a. The initial appointment may be for a period of up to two (2) academic years.

   b. 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. **[18]** Reductions of the existing appointment percentage shall be in accordance with Article 17, Layoff.

   c. The NSF is expected to perform her/his duties in accordance with the provisions of Article 3, Academic Responsibility.

4. Reappointment

   a. When the University is considering an NSF for a reappointment, the following procedures shall apply:

      1. Provided need exists for pre-six year NSF, a decision to reappoint or not to reappoint a NSF who has requested consideration shall be preceded by an assessment of the performance of the NSF.**[19]** 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 NSF in the assessment process is encouraged, but not required.

      2. 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.

      3. 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.

      4. 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.

   b. 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.

   c. Upon reappointment to a fourth year of service within the same department, the University shall grant a salary increase of at least two steps to any NSF who has not received a prior within-range salary increase of at least two steps. **[20]** The University is not precluded from granting a NSF an increase of more than two steps.

   d. 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.

D. 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 post-six year avoidance in Section C.1., or C.4.d., 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 or Article 4, 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

   The following provisions apply to grievances alleging that the University has violated Section C.1. and/or C.4.d., above. Only the AFT, and not individual NSF, may submit grievances alleging a violation of C.1. and/or C.4.d., above.

   a. In any grievance involving Section C.1., the Union shall have the burden to provide:

      1. Evidence of a policy or practice the purpose of which is to restrict access to Continuing Appointments in violation of Section C.1., above; or

      2. Evidence of a pattern of non-reappointment of Lecturers in their sixth year, that demonstrates a deliberate intent to deny access to Continuing Appointments in violation of Section C.1., above.

   b. When the UC-AFT alleges a violation of Section C.1., and the University asserts that its decision comported with C.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 post-six year avoidance.

   c. In any grievance involving Section C.4.d., the Union must provide the following information within forty five (45) calendar days of the date on which the AFT 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 post-six year avoidance set forth in Section C.1., or the provisions of C.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.