Policy: Employment of Non-Tenure-Track Faculty

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Contact Office: Vice President and Provost

Oversight Executive: Vice President and Provost

Applies To: Part-time and full-time faculty who do not hold tenured or tenure-track positions at the University. Non-tenure-track faculty positions are tenure ineligible and are for fixed terms.

This policy does not apply to members of the professional research staff, i.e., research assistants, research associates, research scientists, senior scientists and principal scientists. Members of the professional research staff are governed by the policy on Professional Research Staff.

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Reason for Policy:
To provide the terms and conditions of employment for non-tenure-track faculty.

Policy Summary:

Definition of Terms in Statement:
Non-tenure-track faculty positions may be grouped according to two major functional categories:

- **Academic**: Those positions that normally involve a range of responsibilities that do not encompass the full scope expected from traditional tenure-track academic positions (e.g., an extraordinarily high obligation to research with minimal classroom instruction; or major responsibilities for teaching and/or clinical practice without research obligations).

- **Administrative and professional**: Those positions that provide services to faculty, students and staff in order to support the institution’s primary missions of instruction, research and public service.

  - **Administrative faculty** require the performance of work directly related to the management of the education and general activities of the institution, department or subdivision thereof, and are normally within three reporting steps of the president.

  - **Professional faculty** require advanced learning and experience acquired by prolonged formal instruction and/or specialized work experience and are normally limited to librarians, counselors and other professional positions serving education, research, medical, student affairs and other such activities.
In cases where a non-tenure-track faculty member performs a mix of academic and administrative/professional duties, the academic duties must represent at least fifty (50) percent effort for the position to be classified as academic.

I. QUALIFICATIONS
Academic non-tenure-track faculty positions normally require a terminal degree.

Administrative and professional non-tenure-track faculty positions normally require a master’s degree in an appropriate field, relevant experience (e.g., licensure or certification), and skills specified by the particular position description.

II. RANK AND TITLE
All faculty positions at the University carry a faculty rank which designates the employee’s faculty election (i.e., instructor, lecturer, professor). In addition, administrative and professional non-tenure-track faculty also carry an administrative title more specifically related to their job responsibilities.

II. A.1. Academic Non-Tenure-Track Faculty
Academic non-tenure-track faculty may hold any of the academic or professorial ranks (lecturer, instructor, assistant professor, associate professor and professor) provided they possess the requisite degree requirements, years of experience and level of responsibility. Prefixes such as “visiting” and “research” may be used in conjunction with these ranks.

II. A.2. Promotion in Professorial Rank
Academic non-tenure-track faculty who hold professorial rank at the level of assistant professor or above are eligible for promotion upon completing the sixth year of their appointment. Academic non-tenure-track faculty eligible for promotion in professorial rank must demonstrate excellence in their areas of assigned responsibility in order to be recommended for promotion. Specific criteria and procedures shall be determined by each school or department and may be specified in individual letters of appointment.

II. B. Administrative and Professional Non-Tenure-Track Faculty
Administrative and professional non-tenure-track faculty normally hold the academic rank of lecturer and a functional title (e.g., lecturer and assistant dean of students; lecturer and assistant registrar). On an exceptional basis, with evidence of recognized credentials and direct academic involvement, administrative and professional non-tenure-track faculty may be appointed to a professorial rank if approved in writing by the president of the University.

II. C. Librarians
Librarians, who are members of the professional non-tenure-track faculty, may hold the following ranks: affiliate librarian, assistant librarian, associate librarian or librarian. Librarians who held professorial rank prior to the establishment of faculty ranks for librarians in October 1992 may retain those ranks if they so choose.

III. TERM OF APPOINTMENTS
Appointments of most non-tenure-track faculty are for a minimum of one (1) calendar or academic year and a maximum of five (5) calendar or academic years. Any appointment in excess of three (3) years, however, must be approved in advance by the president.

IV. PERFORMANCE EXPECTATIONS
Performance expectations for non-tenure-track faculty are based on the areas listed below, in addition to any requirement as may be stated elsewhere.

IV. A. Position Duties and Responsibilities
Non-tenure-track faculty members must maintain a high level of competence and professionalism in performing their job-related duties and responsibilities. This will be the major factor in any evaluation or advancement decision.

IV. B. Service to the University
Non-tenure-track faculty may reasonably be expected to participate in institutional
initiatives. Such participation may include service on division, departmental or presidential committees; service as chair of these committees; special assignments of a University-wide nature; etc.

IV. C. Professional and Scholarly Activities
Non-tenure-track faculty members are encouraged to keep abreast of developments in the professional fields in which they are employed. Effective administrators also benefit from active involvement in the intellectual and scholarly developments of their fields that often lead to professional contributions.

IV. D. Consulting Activities
A non-tenure-track faculty member may consult provided such private activity does not interfere with duties owed to the University and is in compliance with the Policy on Consulting by Faculty of the University of Virginia and the Conflict of Interests Policy.

Non-tenure-track faculty must also be attentive to "The State and Local Government Conflict of Interests Act" (Va. Code Title 2, Chapter 31, Section 2.2-3100) which comprehensively prohibits conflicts of interest, including using confidential information of the University for personal economic benefit or accepting service that "reasonably tends" to influence the performance of official duties. A conflict may also arise when faculty have a personal interest in a contract with another state agency which has not been competitively awarded or supported by appropriate authority of the agency head, or has a personal interest in a transaction or contract involving the University. An exemption may be provided by the University for research and development contracts under certain circumstances.

Non-tenure-track faculty may participate in volunteer public service, as provided in the above policies, and in political activity as long as it is in accordance with the Policy Statement on Political Activity.

V. PERFORMANCE REVIEW

V. A. Annual Review
Evaluating the performance of the non-tenure-track faculty member is the responsibility of the supervisor. Each non-tenure-track faculty member should be evaluated annually, including non-tenure-track faculty members who have been awarded the Expectation of Continued Employment (see below).

Each year, every non-tenure-track faculty member's professional performance should be evaluated after the faculty member submits a written annual report in a form prescribed by the appropriate vice president or unit head to whom the faculty member reports. It is good practice for the evaluation to be written, to be shared with the faculty member and to be the subject of discussion between the faculty member and the supervisor. The setting of specific performance expectations for the coming year and monitoring progress toward their attainment is the joint responsibility of both parties. Performance expectations should be mutually agreed upon during the review discussion.

The faculty member's annual report and the supervisor's evaluation become part of the basis for salary adjustments and promotions. Salary increases are based on merit; they are not automatic. Recommendations for salary adjustments originate within the department and are reviewed and approved by the appropriate supervisor, vice president, and, as needed, the president.

If the supervisor has not conducted an annual review, the faculty member shall have the right to insist that the review be conducted in a timely manner.

V. B. Contract Reappointment Review
Non-tenure-track faculty members may be considered for renewal, but there is no presumption of or entitlement to renewal of an appointment. Moreover, the fact that a non-tenure-track faculty member has earned the Expectation of Continued Employment (see below) does not entitle the faculty member to continuing automatic renewal obviating the need for further review.

For non-tenure-track faculty members with one-year appointments, the annual review may serve as the contract reappointment review. For all other non-tenure-track faculty, in the
year prior to the terminal year of his/her contract, the supervisor has the responsibility to
thoroughly review and evaluate the faculty member’s performance over the contract period.
If this evaluation takes place before the faculty member has earned the Expectation of
Continued Employment and the evaluation is positive, the faculty member will be eligible for
reappointment upon the recommendation of the supervisor, usually to a term
commensurate with the term just completed, subject to the approval of the appropriate vice
president, dean or unit head. If the review is not positive, notice of non-reappointment
consistent with the Standards for Notice (see below) should be given.

VI. EXPECTATION OF CONTINUED EMPLOYMENT (ECE)

VI. A. Conditions
With the first reappointment after the sixth year of continuous employment at the
University, non-tenure-track faculty members serve with the Expectation of Continued
Employment (ECE) and may be reappointed, reassigned or terminated only in accordance
with the terms of this policy.

Non-tenure-track faculty members who have earned the Expectation of Continued
Employment will normally be reappointed to a term commensurate with the term just
completed, so long as the services of the University continue to be the type and scope
requiring the faculty member’s high level of professional skills and the annual performance
review (outlined in Section V above) reveals job performance has been judged to be at a
high level of productivity and effectiveness. Regardless of whether or not ECE has been
earned, however, the reappointment of non-tenure-track faculty whose salaries are funded
from grants, contracts or private gifts is subject to the continued availability of such funds.

Except as limited below, all non-tenure-track faculty members who occupy positions that
are 0.5 FTE or greater are eligible for consideration for the ECE. Those occupying positions
that are less than 0.5 FTE can be eligible only if their eligibility is explicitly provided for in
their contracts, and that exception is approved in advance by the dean of the school or the
appropriate vice president.

Unless expressly provided by contract, non-tenure-track faculty employed in the
Department of Athletics, who do not already have the ECE as of July 1, 2005, and who are
0.5 FTE or greater in the Department of Athletics, cannot obtain the ECE.

VI. B. Review Process
The Expectation of Continued Employment Review must be completed before a non-tenure-
track faculty member may be considered to have earned the ECE.

For non-tenure-track faculty holding one-, two-, or three-year appointments, this review
process shall usually take place in the fifth year of employment; for those with five-year
appointments, it shall usually take place in the ninth year.

This review process shall substitute for the annual performance review in the year in which
it is conducted. It shall be conducted by the supervisor using written procedures established
by the relevant school or department and approved by the appropriate vice president. No
supervisor shall have the unilateral power to award the ECE, and any recommendation
regarding the ECE must follow successful completion of this review process. A non-tenure-
track faculty member shall have the right to insist that an ECE review be conducted with
reasonable lead-time to allow appropriate consideration during the reappointment process.

Once a non-tenure-track faculty member has undergone this substantial review, the
supervisor may recommend to the appropriate vice president that the faculty member may
be awarded the ECE. If the Expectation of Continued Employment Review has been
successfully completed per the provisions of this policy, the appropriate vice president may
approve in writing that the ECE be awarded to the non-tenure-track faculty member. The
ECE requires the affirmative written approval of the appropriate vice president, and absent
such written approval, is not earned. The vice president may consider the needs of the
University and the performance evaluation recommendation.

Those non-tenure-track faculty members who have already attained the ECE under the prior
version of this policy will not be subject to the Expectation of Continued Employment
Review, although they will be subject to all other provisions of this policy, including an
If the ECE Review is not positive, or the supervisor or vice president does not recommend that the ECE be awarded, notice of non-reappointment, or the intention not to recommend reappointment, must be given in writing in accordance with the Standards for Notice described below.

A non-tenure-track faculty member who is eligible for the ECE, but who has not, despite requesting such review, received it in a timely fashion, will be reappointed for a term commensurate with the previous term without the ECE. If the substantive review does not occur before the end of this new term, or if it does occur and the results are positive and the supervisor and vice president approve, the non-tenure-track faculty member will be awarded the ECE. If the substantive review occurs before the end of this new term and the results are negative, or the supervisor or vice president do not award the ECE, the faculty member will receive notice of non-reappointment in accordance with the Standards for Notice described below.

VI. C. Provision for Appeal on Procedural Grounds
If a dispute arises over whether the Expectation of Continued Employment Review was accomplished in accordance with this policy, the faculty member may file a written appeal to the provost or appropriate vice president stating the basis for procedural complaint within thirty (30) days of being made aware of the facts or other basis for procedural complaint, otherwise any procedural challenge is and shall be deemed waived by the faculty member in the absence of good cause shown to the satisfaction of the provost or the appropriate vice president. The provost or appropriate vice president to whom the appeal is made can, in addition to reviewing the complaint, delegate the power to investigate the complaint to an employee of the University. The provost or appropriate vice president has thirty (30) days after receipt of the written appeal to determine if the appeal will be upheld, rejected, or returned to the complainant for further information. The determination made by the provost or appropriate vice president shall be final. However, final determination shall not preclude a faculty member from appealing in a timely manner and seeking review on non-procedural grounds authorized by established University grievance procedures. Grievance procedures may be found at the following:

Administrative & professional non-tenure-track faculty
Academic non-tenure-track faculty

VI. D. Review Waiver
Nothing, however, precludes the non-tenure-track faculty member from waiving, in writing, the right to the Expectation of Continued Employment review and ECE status; and accepting, in lieu, a reappointment for a term commensurate with the term just completed.

VII. REAPPOINTMENT AND STANDARDS FOR NOTICE

VII. A. Reappointment
Non-tenure-track faculty may qualify for reappointment and/or promotion if they are judged to have met the criteria established for their positions by their school or unit and approved by the relevant vice president. Non-tenure-track faculty who are to be recommended for reappointment should be notified in writing within three months of said reappointment by the appropriate dean, department head, and/or immediate supervisor.

VII. B. Non-Reappointment
Notice of non-reappointment must be given in writing in accordance with the following standards:

Persons who have been employed in a non-tenure-track faculty position at the University for one year or less should receive notice of non-reappointment three months before the expiration of their appointment. Regardless of when they receive notice, they are entitled to three months of employment following that notice.

Persons who have been employed in a non-tenure-track faculty position at the University for more than one year but up to two years should receive notice of non-reappointment six months before the expiration of their
Persons who have been employed in a non-tenure-track faculty position at the University for more than two years should receive notice of non-reappointment twelve months before the expiration of their appointment. Regardless of when they receive notice, they are entitled to twelve months of employment following that notice.

Non-tenure track faculty members terminated for just cause (noted in Section VIII.B.1. below) are not eligible for the standards of notice referenced above.

VIII. REASSIGNMENT AND TERMINATION

Members of the non-tenure-track faculty may be reassigned or terminated under the following conditions:

VIII. A. Reassignment

Members of the non-tenure-track faculty may have their duties reassigned at any time. In most cases, this would be because of, but not limited to, the reduction or elimination of the specific services for which they were employed or because of financial stringency. Reassignment shall be initiated by the faculty member’s supervisor, subject to the approval of the appropriate vice president. Reassignment can involve change in administrative title or supervisory responsibilities, or reassignment to another department. Adequate notice shall be provided before reassignment.

The University’s responsibility under reassignment shall be to make available a substitute position or duties reasonably commensurate with the faculty member’s education, experience, and performance, and with the needs of the University. Administrative reassignment normally has no effect on compensation, academic rank, or the current term of employment.

VIII. B. Termination

Members of the non-tenure-track faculty, whether or not they have earned the Expectation of Continued Employment, may be terminated before the end of the employment term under the following circumstances:

VIII. B. 1. Just Cause

Members of the non-tenure-track faculty may be terminated for just cause. Stated causes for termination shall include, but not be limited to: professional incompetence, unacceptable performance after due notice, unethical or unlawful conduct, misconduct that interferes with the capacity of the employee to perform effectively the requirements of employment, and falsification of credentials or experience. Non-tenure track faculty members terminated for just cause are not eligible for the standards of notice afforded to those terminated due to non-reappointment (see Section VII.B. above).

A supervisor may act to terminate a non-tenure-track faculty member for cause only with the prior concurrence of the vice president to whom the faculty member ultimately reports. Termination for cause must be preceded, where feasible, by written notice of the specific cause or causes for termination, the effective date of the termination, a written explanation of the cause for termination, and a reasonable opportunity, with the assistance of counsel if desired, for the non-tenure-track faculty member to respond.

A member of the non-tenure-track faculty may be immediately suspended and required to vacate the premises of the University if, in the discretion of the vice president to whom the faculty member ultimately reports, such action is necessary to prevent injury, damage, or disruption. In the event the vice president is unavailable and a perceived threat is imminent, action should be taken by the supervisor and the vice president notified of that action immediately. The required notice, explanation, and opportunity to respond must be given however, as soon as possible following the suspension.

VIII. B. 2. Financial Stringency

In the event of financial stringency, members of the non-tenure-track faculty may be terminated as set forth in the Guidelines for General Faculty Staffing Due to Financial Stringency which are incorporated herein by reference.
VIII. B. 3. Appointments Subject to Availability of Funding
Appointments subject to the availability of funding associated with grants, contracts, or private gifts may be terminated should such funds cease to be available for such purpose. Departments and units may elect to place the affected individual on leave without pay through the end of his/her current term of employment.

VIII. B. 4. Abolition of Position
In the event that a position is abolished and reassignment is not feasible, members of the non-tenure-track faculty may be terminated. The Standards for Notice for non-renewal previously stated apply.

VIII. B. 5. Right of Appeal
Members of the non-tenure-track faculty who have been reassigned against their will, suspended or terminated for just cause have the right to appeal the decision through established grievance procedures and to seek reinstatement, back pay, and other appropriate relief authorized by University policy (See Section VIII).

VIII. C. Resignation
Members of the non-tenure-track faculty wishing to resign should give written notice as far in advance as possible, taking into account the needs of the academic schedule. For administrative and professional non-tenure-track faculty, ordinarily one month is the minimum acceptable notice.

IX. CONTRACTS THAT SUPERSEDE THIS POLICY
Non-tenure-track faculty members hired as a result of individually negotiated contracts of employment or those with “at will” employment terms contained in their contracts that are different from the employment rights and terms contained in this policy, are governed by the terms of their individually negotiated contracts. The employment terms contained in such contracts which have been approved by the vice president in charge of the position or function area and which are not otherwise in violation of law or policies of the Board of Visitors shall supersede this policy, including the policy provisions relating to non-reappointment and earning the Expectation of Continued Employment.

Procedures: Sample Conditional Offer Letter
Related Information: Benefits applicable to non-tenure-track faculty and information regarding leave of absence, including annual leave, may be found at http://www.virginia.edu/uvapolicies/personnel/EmploymentPolicies.html.

Grievance procedures may be found at:
- Administrative & professional non-tenure-track faculty
- Academic non-tenure-track faculty

Policy Background: First statement about “members of the general faculty and academic tenure” was issued in 1975 by President Frank L. Hereford. “Policy on the General Faculty” first issued in 1987 by vice president and provost, Paul R. Gross, under direction of President Robert M. O’Neil.

Major Category: Human Resource Management

Category Cross Reference:

Process:

Next Scheduled Review:

Approved By, Policy Review Committee, 02/24/06
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<td>Revision History:</td>
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<td>'Policy on General Faculty' revised in 1997 by vice president and provost, Peter Low, to stipulate standards for notice of non-renewal. Current version replaces 'Policy on General Faculty.'</td>
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