

SETTLEMENT AGREEMENT

Professional Staff Congress/CUNY and

The City University of New York et al.

(Three-year adjunct appointment inclusion of programs: pilot)

1. The Professional Staff Congress/CUNY ("PSC") hereby withdraws with prejudice the grievance filed to arbitration on or about September 22, 2017 entitled "PSC v. The City University of New York—Lehman College, LaGuardia Community College, The City College, Medgar Evers College, College of Staten Island on behalf of all affected members of the instructional staff alleging '*Failure and refusal to consider teaching adjuncts for three year adjunct appointments where adjuncts have been appointed to an academic department and their courses are counted toward the Freshman Year Initiative LEH, College Now, adult degree program, TELC, SEEK, The Presidents' Office, The Provost or any other programs. Failure and refusal to provide notice of non-reappointment or reappointment consistent with contractual timeframes.*,' currently pending before the American Arbitration Association ("AAA") [*PSC v. CUNY*, AAA 01 17 0006 3948]. Within seven (7) days of the effective date of this Settlement Agreement, the PSC shall notify the AAA of the withdrawal with prejudice of the grievance referenced in this paragraph. A copy of such notification shall also be sent to the undersigned counsel of The City University of New York ("CUNY").
2. The PSC, on behalf of all instructional staff, agrees to withdraw with prejudice any other outstanding actions, claims, appeals, proceedings, complaints, grievances, or arbitrations made internally at CUNY or pending in any court, administrative agency, or other forum or tribunal regarding the subject matter of the grievance and arbitration described in paragraph 1 above, and further agrees not to initiate any action, claim, appeal, proceeding, complaint, grievance, or arbitration internally at CUNY or in any court, administrative agency, or other forum or tribunal, against CUNY, or any of its colleges and/or professional schools or graduate schools ("CUNY Colleges"), or any of their trustees, officers, employees, or agents, regarding the subject matter of the grievance and arbitration described in paragraph 1 above, and regarding the terms of this Settlement Agreement, except as may be necessary to enforce this Settlement Agreement.
3. The parties agree that the pilot program for Multi-year Appointments for Teaching Adjuncts ("Pilot") set forth as Appendix E in the 2010-2017 Collective Bargaining Agreement Between The City University of New York and The Professional Staff Congress/CUNY and annexed as Appendix A shall be implemented as follows during the remainder of the Pilot period, including any extensions negotiated by the parties:

The service eligibility requirements set forth in paragraph 2 of the Pilot that a teaching adjunct "has taught at least six (6) contact teaching hours per semester within the same department of the college" shall include the contact hours taught in certain programs, as set forth in Appendix B.

4. The parties further agree that the terms of this Agreement shall apply when determining whether a teaching adjunct has met the service eligibility requirements set forth in paragraph 2 of the Pilot for prospective three-year appointments commencing with the 2019-2020 academic year.
5. Adjuncts who meet the new service eligibility requirements set forth in paragraph 3 above as of the Spring 2019 semester – and, paragraph 4 above notwithstanding, those adjuncts who would have met said requirements as of the Spring 2018 semester, had they been in effect then – will be considered during the Spring 2019 semester for a three-year appointment commencing with the start of the 2019-2020 academic year, in accordance with paragraphs 2 and 4 of the Pilot.
6. The parties agree that, when applying the terms of this Agreement, the Department P&B committee which conducts the comprehensive review pursuant to paragraphs 4 and 2 of the Pilot may obtain and consider information from the Director(s) of the Program(s) whose course hours are included towards the six hour requirement, and that the Department Chair (or assigned P&B member) may include such information in the annual evaluation of the affected adjunct.
7. The parties agree that neither the PSC nor any individual Teaching Adjunct may grieve or legally challenge the inclusion or exclusion of eligible contact hours as set forth in Appendix B and that only programs set forth in Appendix B may be included in determining whether a teaching adjunct has met the service requirements set forth in paragraph 2 of the Pilot. Any program established or modified after the final execution of this Agreement may be added to Appendix B by agreement of the parties.
8. For all other purposes except those specifically listed in this Agreement and Appendix B, the PSC/CUNY Collective Bargaining Agreement including all other provisions of the Pilot shall continue to be applied.
9. This Settlement Agreement constitutes the entire agreement entered into by the parties, and it supersedes any prior communications between the parties, whether written or oral, concerning the subject matter hereof.
10. This Settlement Agreement cannot be supplemented, amended, or modified in any manner, except in a writing signed by all of the parties to this settlement agreement.
11. CUNY and CUNY Colleges do not admit any violations of law or the collective bargaining agreement between the parties or any wrongdoing whatsoever, and this Settlement Agreement shall not be construed, understood or used as evidence of any such admission.
15. This Settlement Agreement may be executed in several counterparts, each of which shall be deemed an original and which, taken together, shall constitute one and the same instrument. Duplicate and facsimile copies of this Settlement Agreement will have the same force and effect as the original.

16. The terms of this Settlement Agreement shall not serve as precedent and neither this Settlement Agreement nor any of its terms may be used as evidence regarding any underlying procedural or substantive issues involved herein, in any action, appeal, proceeding, claim, complaint, grievance or arbitration of any kind, except to enforce the terms of this Settlement Agreement.

17. This Settlement Agreement shall be effective and binding only upon its execution by all of the parties listed below.

18. The effective date of this Settlement Agreement shall be the latest date below.

John S. Bell 4/10/18
For Professional Staff Congress/CUNY Date

[Signature] 4/11/19
For The City University of Date
New York, Office of Labor Relations

Chely Jennis 4/11/19
For CUNY Colleges and The City University of Date
New York, Office of General Counsel

Appendix A

2010-2017 Collective Bargaining Agreement Between The City University of New York and The Professional Staff Congress / CUNY Appendix E ("Pilot".)

MULTI-YEAR APPOINTMENT FOR TEACHING ADJUNCTS

1. The parties will enter into a pilot program for five academic years beginning with the 2016-2017 academic year through the end of the 2020-2021 academic year. Three-year appointments made within the five-year period shall remain in effect for the term of each appointment. The parties will meet no later than June 30, 2020, to determine whether to continue the pilot program as specified in this Agreement or to modify the pilot program. If the parties are unable to agree to continue or to modify the pilot program, the terms regarding adjunct appointments will revert to those expressed in the 2007-2010 collective bargaining agreement.
2. An employee who has served as a teaching adjunct and who has taught at least six (6) contact teaching hours per semester within the same department of the college for the 10 most recent consecutive semesters (excluding summer sessions) preceding the effective date of the three-year appointment shall be considered for a three-year appointment, subject to the comprehensive review and assessment referenced in paragraph "4" below. Up to four semesters of substitute service in a teaching title within the same department of the college may be counted as qualifying service. The first three-year appointments shall begin in the Fall 2017 semester and will continue to be available starting in each fall semester through Fall 2020. Adjuncts shall be notified on or before May 15th concerning appointment or non-reappointment for a three-year period.

In rare instances in which a department Personnel and Budget Committee determines that an eligible adjunct will not be reappointed to a three-year appointment but could benefit from a one-year appointment and additional guidance, the adjunct shall be appointed to a one-year appointment. At the end of the one-year appointment, the adjunct must be considered for a three-year appointment.

3. As a one-time transition due to the implementation of this pilot program, those adjuncts who have taught at least six (6) classroom contact hours per semester within the same department at the same college for 14 out of the last 18 consecutive semesters (excluding summer sessions) preceding the 2016-17 academic year—including the four semesters (excluding summer sessions) immediately preceding the 2016-17 academic year—and who are eligible for a two-semester appointment for the Fall 2016 and Spring 2017 semesters under Article 10.1.(a)3.,—shall receive a two-year appointment for the 2016-17 and 2017-18 academic years, without the necessity of a comprehensive review, but subject to sufficiency of registration and changes in curriculum. Up to four semesters of substitute service in a teaching title within the same department of the college may be counted as qualifying service. An adjunct who believes that he/she meets the eligibility requirements for this two-year appointment must file a notice of interest with his/her department chair no later than October 15, 2016. Filing a notice of interest shall be a pre-condition to receiving consideration for a two-year appointment. It is understood that adjuncts who receive these initial two-year appointments will receive a comprehensive review during said period and will be considered for a three-year appointment effective beginning in the 2018-19 academic year, on the same basis as other adjuncts, as set forth in paragraph "4" below. Adjuncts who file a notice of interest shall be notified on or before February 1, 2017, confirming their appointment to a two-year appointment or notifying them of their lack of eligibility therefor.

4. To receive a three-year appointment, an adjunct who meets the service requirements must receive the positive recommendation of his/her department P&B committee and of the college President, or his/her designee [e.g., Provost, Dean]. The recommendations shall be based upon a comprehensive review of the adjunct's performance and the fiscal and programmatic needs of the department and/or the college.
5. Adjuncts who receive three-year appointments shall be considered for a subsequent three-year appointment, subject to a comprehensive review of the adjunct's performance and an assessment of the fiscal and programmatic needs of the department and/or the college, as referenced in paragraph "4" above. Consistent with paragraph "2" above, if an adjunct serving in a three-year appointment is appointed to teach as a substitute in the same department of the college within the three-year period, such substitute appointment shall not serve to disqualify the adjunct from consideration for another three-year appointment as an adjunct at the conclusion of the current three-year appointment period or thereafter, if the substitute appointment continues beyond the conclusion of the current three-year appointment period but ends within the pilot period. Consistent with section 6.4.d of the Bylaws of the Board of Trustees, there is no presumption of continuous appointments. Adjuncts shall be notified on or before May 15th of the third year of their current three-year appointment concerning reappointment or non-reappointment for a successive three-year period.
6. During the three-year appointment period, the adjunct shall follow existing departmental policies regarding student evaluations; it is understood that the weight to be accorded student evaluations in the comprehensive review process is a matter of academic judgment. At least one 50-minute teaching observation shall be conducted during the three-year period.
7. During the three-year appointment period, the adjunct shall be assigned a minimum of six (6) classroom contact hours in each Fall and Spring semester, but shall have no entitlement to a particular course(s) or schedule.
8. Should a department be unable to offer an adjunct a minimum of six (6) classroom contact hours in a given semester, the department chair shall offer the adjunct either: A) an academically appropriate non-teaching adjunct appointment in the current semester for an equivalent number of hours at the non-teaching rate; or B) an additional teaching assignment of the number of hours of the contact hour deficit within the following two semesters or summer session. For those adjuncts who receive their primary health insurance by virtue of their adjunct employment at the college and who would lose the health insurance if their assignment at the college fell below six (6) contact hours in any given semester, department chairs shall make every effort to give such adjunct a non-teaching assignment in the same semester as the contact hour deficit sufficient to maintain health insurance; for these purposes only, one non-teaching hour shall be deemed equivalent to 0.4 teaching contact hour.

A semester in which an adjunct's workload falls below six (6) contact hours for reasons other than his/her declination to teach continues to count as 6 contact teaching hours of service toward eligibility for the following: subsequent three-year adjunct appointments; movement in salary schedule (Article 24.2.(b)); waiver of tuition (Article 29.3); Adjunct Professional Development Fund (Appendix B).

9. An adjunct may discuss with his/her department chair his/her course and scheduling preferences. The department chair may consider the adjunct's expressed preferences—just as the expressed preferences of full-time faculty are considered—but the department chair retains the final authority to determine who will be assigned to teach which courses and when the courses will be offered. If an adjunct declines to teach more than one course as assigned by the department chair during the three-year period, the three-year appointment shall be considered null and void.

Notwithstanding the above, an adjunct serving in a three-year appointment may seek to be excused for up to one semester upon the submission of documentation satisfactory to the college's Office of Human Resources establishing the need for such owing to 1) the adjunct's own illness; 2) the need to care for an ill member of the adjunct's immediate family; 3) the need to care for a newborn child or a newly adopted child, adopted at up to five (5) years of age; or 4) receipt of an academic grant or fellowship that involves full-time commitment or absence. If approved, such one-semester break in service shall not serve to disqualify the adjunct from consideration for another three-year appointment at the conclusion of the current three-year appointment.

10. Adjuncts who receive a two-year or three-year appointment under this provision will earn 12 contact hours per year of personal illness/emergency leave, which may be accrued up to a maximum of 36 contact hours. Adjuncts who are reappointed to a three-year appointment may carry over up to 36 contact hours of leave. An adjunct is not entitled to carry over the leave to an appointment other than a three-year appointment, nor is an adjunct entitled to receive a payout for unused days.
11. Adjuncts who receive a three-year appointment continue to be subject to discharge for just cause, subject to the Grievance and Arbitration article (Article 20) and not to Article 21 of the collective bargaining agreement.
12. The second paragraph of section 10.1(a)3. of the collective bargaining agreement, regarding two-semester appointments, remains in effect.

Appendix B

The parties agree that, for purposes of determining whether an adjunct has met the service eligibility requirements set forth in paragraph 2 of the pilot program for Multi-year Appointments for Teaching Adjuncts, the contact hours taught in the programs listed below will be counted towards the required six contact hours in paragraph 2 of the Pilot:

Baruch College:

College Now
Marx School of Public and International Affairs
Search for Education Elevation Knowledge (SEEK)

Borough of Manhattan Community College:

College Now
Accelerated Study in Associate Programs (ASAP)

Bronx Community College:

College Now
Accelerated Study in Associate Programs (ASAP)

Brooklyn College:

College Now
Honors Academy
Interdisciplinary programs
Search for Education Elevation Knowledge (SEEK)

The City College:

College Now
First Year Experience
Sustainability in Urban Environment
Search for Education Elevation Knowledge (SEEK)

Hostos Community College:

College Now
Accelerated Study in Associate Programs (ASAP)
Early College (High School)
College Discovery (High School)

Hunter College:

College Now
Search for Education Elevation Knowledge (SEEK)

John Jay College of Criminal Justice:

College Now
Interdisciplinary Studies
Search for Education Elevation Knowledge (SEEK)

Kingsborough Community College:

College Now
Early College Initiative (ECI)
Accelerated Study in Associate Programs (ASAP)

LaGuardia Community College:

College Now
Liberal Arts (LIB): only those adjuncts who, during the eligibility period, have taught at least one course per semester in the Department which is conducting the Comprehensive Review shall be included.
Energy Tech High School
Emergency Medical Technician
Counseling / Academic Advisement

Lehman College:

College Now, Freshman Year Initiative LEH: only those adjuncts who, during the eligibility period, have taught at least one course per semester in the Department which is conducting the Comprehensive Review shall be included.

Medgar Evers College:

College Now
Accelerated Study in Associate Programs (ASAP)
Freshman Year

New York City College of Technology:

College Now
City Poly Tech (High School)
PTech (High School)

Queens College:

Business Liberal Arts
Search for Education Elevation Knowledge (SEEK)

Queensborough Community College:

College Now
Accelerated Study in Associate Programs (ASAP)

College of Staten Island:

College Now
CORE: Only those adjuncts who, during the eligibility period, have taught at least one course per semester in the Department which is conducting the Comprehensive Review shall be included

York College:

College Now
College Education Academy: Only those adjuncts who, during the eligibility period, have taught at least one course per semester in the Department which is conducting the Comprehensive Review shall be included