

MEMORANDUM OF AGREEMENT
FOR A SUCCESSOR COLLECTIVE BARGAINING AGREEMENT BETWEEN
THE CITY UNIVERSITY OF NEW YORK AND
THE PROFESSIONAL STAFF CONGRESS/CUNY

Term: 10/20/10 – 11/30/17 85 months + 14 days

Wage Increases: 1.00% across-the-board effective 4/20/12
1.00% across-the-board effective 4/20/13, compounded
2.5% across-the-board effective 4/20/14, compounded
2.00% across-the-board effective 4/20/15, compounded
2.00% across-the-board effective 4/20/16, compounded
1.5% across-the-board effective 4/20/17, compounded

Retroactive payments shall be made in two payments. CUNY will use its best efforts to make both payments in the 2016 calendar year.

Ratification Bonus: A lump-sum payment in the amount of \$1000, pro-rated for other than full-time employees, will be provided for those employees on payroll as of September 1, 2016, who were also on payroll May 1, 2016. For purposes of computing the pro-rata payment for other than full-time employees, twenty-four contact hours worked during the 2015-16 academic year shall be deemed full-time service. Notwithstanding the above, adjuncts who have taught nine contact hours in both the Fall 2015 semester and the Spring 2016 semester and who are on payroll as of September 1, 2016 shall be entitled to the full \$1000 payment. A lump-sum payment in the amount of \$750 will be provided to Graduate Assistants A, B, and C, who are on payroll as of September 1, 2016, and were also on payroll May 1, 2016, and a lump-sum payment in the amount of \$500 will be provided to Graduate Assistant Ds who are on payroll September 1, 2016, and were also on payroll May 1, 2016.

Health Savings and Welfare Fund Contributions: The May 5, 2014 letter agreement regarding health savings and welfare fund contributions between the City of New York and the Municipal Labor Committee pertains to CUNY and the PSC and is attached (Attachment 1). Effective the last day of the contract, the annual per capita contribution paid to the Welfare Fund on behalf of active and retired employees shall be increased by \$100. Such contribution shall be pro-rated for eligible active adjunct employees.

Higher Education Officer Series:

Amend Section 22.5 of the collective bargaining agreement as follows:

In recognition of the non-promotional status of the Higher Education Officer series titles, the parties agree that:

- (a) Upon the recommendation of the appropriate supervisory personnel in recognition of excellence in performance or increased responsibilities, a member of the instructional staff in any of such titles may, upon approval of the Board, be granted an additional Movement within Schedule in the same title.

- (b) Assistants to HEO, HEO Assistants or HEO Associates who have completed one or more years of service at the top salary step in their respective salary schedules shall be eligible for a discretionary assignment differential of \$2,500, to be added to their annual base salary, based upon excellence in performance or increased responsibilities within the title. Eligible employees may be nominated by their supervisors or may nominate themselves to receive the differential. Initial review of nominations shall be performed by the labor-management committee as constituted in Section 15.4 (f). Positive recommendations from the labor management committee shall be forwarded to the College HEO Committee; positive recommendations from the College HEO Committee shall then be forwarded to the President or the President's designee for decision, subject to approval of the Board.

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Amend Section 15.4(f) as follows: There will be a labor management committee on each campus composed of three members designated by the President of the College and three members designated by the PSC. Responsibility for chairing the committee will alternate annually between labor and management representatives. The committee will hear concerns from individual employees in the Higher Education Officer series concerning workload. The Committee, as appropriate, may make non-binding recommendations to the President. The Committee will also provide the initial review of requests for an assignment differential in accordance with Section 22.5.

Amend Section 13.13 as follows: Notice of non-reappointment shall be given to employees on or before April 1. For employees who first assumed their position at a given college on or after October 1 of the preceding year, the notice of non-reappointment (for first reappointment only) shall be given on or before May 1.

Multi-year Appointments for Teaching Adjuncts:

See Attachment 2.

Distinguished Lecturers and Clinical Professors:

- Section 11.7 shall be amended to provide for up to fifteen (15) additional annual appointments for those Distinguished Lecturers and Clinical Professors on payroll as of May 1, 2016.
- Effective with the Fall 2016 semester, the total number of Distinguished Lecturers and Clinical Professors combined shall not exceed 250 at any one time, University-wide.
- Effective upon ratification of the agreement by the membership of the PSC and approval by the Board of Trustees of The City University of New York, when a Clinical Professor is hired by the Medical School, the salary range shall be from the minimum of the Medical Lecturer range to the maximum of the Medical Professor (Clinical) range.

With the exception of the applicable salary ranges, the other terms and conditions of employment of Clinical Professors in the Medical School shall be the same as other Clinical Professors, as provided in Article 11.7.

Bereavement Leave:

- Add new section 14.8 to provide as follows: All full-time instructional staff members shall be entitled to up to four days of paid bereavement leave for a death in the immediate family (defined as spouse, domestic partner, parent, step-parent, father-in-law, mother-in-law, child, stepchild, sibling, grandparent or grandchild). Proof of bereavement shall be provided upon request made by the department chair, supervisor, or the College Human Resources Department. Instructional staff members shall notify their department chair or supervisor of the need for the leave as soon as possible.
- Revise section 14.9 (formerly 14.8) as follows: Effective August 25, 2006, adjunct classroom teachers, teachers on multiple position assignments employed for a course, non-teaching adjuncts including full-time instructional staff on non-teaching multiple position assignments and adjunct College Laboratory Technicians including full-time instructional staff in adjunct college laboratory multiple position assignments may be excused for personal illness or personal emergencies including religious observance, death in the immediate family or similar personal needs which cannot be postponed for a period of 1/15 of the total number of clock hours in the particular session or semester. Request for such leave, where possible, must be made in advance, in writing. If it is not possible to make such a request in advance, the department chairperson or supervisor should be informed as soon as possible. The reason provided must be satisfactory to the chairperson or supervisor. Request in advance is not expected in cases of a death in the immediate family, as defined in Article 14.8, but employees covered by this section are expected to give advance notice to their department chair or supervisor of the need for the leave.

Distinguished Professorship:

- Modify section 23.1 as follows: Distinguished Professors shall be nominated by a college in accordance with the procedures in the College P&B Committee and Board Bylaws for appointments. The number of such positions shall not exceed 250.
- A side letter concerning appointments to the Distinguished Professor title is attached hereto as Attachment3.

CUNY Language Immersion Program (“CLIP”) and CUNY Start Instructors:

Effective with the start of the 2016-17 academic year, the University will establish two new full-time titles: CLIP Instructor and CUNY Start Instructor. Terms and conditions for the new titles will be in accordance with the principles set forth in Attachment4.

Annual Evaluations:

Add a new sub-paragraph to 18.3 as follows:

In the event an evaluation conference is scheduled as provided for in subsections (a) or (b) above, and the employee fails to attend without reasonable cause, the conference shall be rescheduled. The employee shall be notified in writing of the date of the rescheduled conference. If the employee again fails to attend the evaluation conference without reasonable cause, the department chair/designated official may prepare an evaluation in memorandum form for inclusion in the employee’s personal file without holding a conference. A copy of the memorandum shall be sent to the employee within 10 working days from the scheduled date of the rescheduled conference by regular mail at his/her address on file and by email to his/her college email address .

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Salaries Above Base (Appendix C):

- The permissible salary in excess of the base salary shall be increased to 180% of the last step of the applicable base salary schedule.
- The title Research Associate shall be added to the list of eligible titles.
- Under a five-year pilot program from the 2016-17 academic year through the 2021-22 academic year, the Chancellor or his/her designee shall be entitled to recommend annually the appointment of up to 10 instructional staff employees in the titles referenced in Appendix C at a salary above base, not to exceed 50 appointments University-wide at any one time. The Chancellor or his/her designee shall convene an *ad hoc* committee from the relevant department/unit situated within the college where the faculty member will be appointed to review the salary recommendation. The *ad hoc* committee's recommendation shall be forwarded to the University-wide Provost for review. These appointments shall not be subject to the limits on salary above base included in Appendix C of this Agreement.

PSC-CUNY Research Awards:

- Effective July 1, 2014, and annually thereafter, CUNY will provide the sum of \$3,704,218 for PSC-CUNY Research Awards (section 25.1).
- Effective July 1, 2014, and annually thereafter, CUNY will provide an additional \$180,000.

Educational Technology and Distance Learning:

A labor-management committee will be established to develop contract language governing online classroom teaching observations.

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Medical Separation Procedure:

A new procedure to separate from employment employees who suffer from a physical or mental incapacity is attached hereto as Attachment 5.

Graduate Assistants:

Amend Article 26.6 to provide that Graduate Assistants who were covered by the New York State Health Insurance Program and who are appointed as adjuncts without a break in service shall be eligible to elect health insurance coverage under the New York City Health Benefits Program without the prior two-consecutive-semester service requirement, provided that they meet all other eligibility requirements.

Librarians:

Amend Section 14.3 (b) to provide that members of the instructional staff who are employed full-time as Librarians shall accrue 40 work days of annual leave annually.

Hunter College Campus Schools Assistant Teachers:

The parties agree to add an additional \$5000 on each step of the Assistant Teacher salary schedule effective the Fall semester of 2016.

Adjunct Professional Development Fund:

Amend Article 33.6 to provide that CUNY will provide the sum of \$160,000 annually to the Adjunct Professional Development Fund.

Tuition Waivers:

A labor-management committee will be established, as set forth in Attachment 6.

EOC Adjunct Health Insurance Coverage:

- Effective with the start of the Fall 2016 semester, qualified EOC adjuncts shall be eligible to enroll in the New York City Health Benefits Program on the same basis as other qualified adjuncts, as defined in paragraphs “2,” “3,” and “4” of the parties’ July 30, 2014 Concluding Agreement on Adjunct Health Insurance.
- Qualified EOC adjuncts eligible to participate in the New York City Health Benefits Program will also be provided with supplemental health benefits through the PSC/CUNY Welfare Fund effective with the start of the Fall 2016 semester.

Expedited Disciplinary Process:

The parties agree to establish a 5-year Pilot Program eliminating the hearing before the Chancellor’s Designee in Article 21 disciplinary proceedings. During the five-year pilot period starting with the 2016-17 academic year, the provisions set forth in Attachment 7 will supercede Article 21.

Section 9.10 Appeals: During the five-year pilot period starting with the 2016-17 academic year, the following provision will supplement Article 9.10:

The President shall be required to respond to an appeal from a full-time faculty member regarding a negative decision on reappointment or tenure within 120 calendar days after the submission on appeal is complete, including the submission of any additional materials and the meeting with the President, if the college permits one, whichever comes later.

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Excluded Personnel:

Amend Article 1 to provide that in addition to the excluded functions or titles already identified in Article 1, each college and the Central Office may exclude up to three additional positions for employees newly appointed to those positions; no employee's representation status shall be changed while he/she remains in his/her current position.

Department Chairs:

Provide that neither PSC grievance counselors nor PSC principal officers may serve as a Department Chairperson.

Workload (Appendix A):

A labor-management committee will be established, as set forth in Attachment 8.

Business School Salaries:

A labor-management committee will be established, as set forth in Attachment 9.

Special Arbitration Provisions:

Amend section 20.5 (a) to read as follows:

The parties shall mutually agree on a panel of arbitrators. An arbitrator from the panel shall be designated to serve in any case submitted to arbitration in accordance with this Section. The designation of the arbitrator to be assigned in a particular case shall be made by the American Arbitration Association ("AAA") or by such other method as agreed to by the parties to the collective bargaining agreement. Such designation shall be made in rotation order for cases submitted for arbitration in accordance with this Section. The arbitrator shall be authorized at any time during the course of the proceedings, on the basis of the proceedings to date, to issue

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preliminary or interim awards, including awards as to arbitrability, which shall determine the further course of the proceedings.

Educational Opportunity Centers: Modifications to the terms and conditions of employment for employees of the Educational Opportunity Centers will be covered by a separate Memorandum of Agreement, including the modifications referenced in the paragraph set forth above concerning EOC adjunct health insurance coverage. EOC salaries and ratification bonus will conform to the terms of this MOA.

Legislative Action: It is agreed by and between the parties that any provision of this agreement requiring legislative action to permit its implementation by amendment of law or by providing the additional funds therefor shall not become effective until the appropriate legislative body has given approval.

Savings Clause: In the event that any provision of this Memorandum of Agreement is found to be invalid, such invalidity shall not impair the validity and enforceability of the remaining provisions.

Approval and Ratification: This Memorandum of Agreement is subject to approval by the Board of Trustees of The City University of New York and ratification by the membership of the Professional Staff Congress/CUNY and is subject to State and City funding guidelines and the costing analyses of The State of New York and The City of New York.

Enforceability: It is agreed by and between the parties that this Memorandum of Agreement shall not become effective and is not enforceable until the appropriate governmental bodies provide adequate funding of the economic package.

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For The City University of New York

For the Professional Staff Congress/CUNY

James B. Milliken Date
Chancellor

Barbara Bowen Date
President

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OFFICE OF LABOR RELATIONS

40 Rector Street, New York, N.Y. 10006-1705
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Commissioner

RENEE CAMPION
First Deputy Commissioner

MAYRA E. BELL
General Counsel
CHRIS BERNER
Chief of Staff
GEORGETTE GESTELY
Director, Employee Benefits Program

August 14, 2014

Harry Nespoli
Chair, Municipal Labor Committee
125 Barclay Street
New York, NY 10007

Dear Mr. Nespoli:

This is to confirm the parties' mutual understanding concerning the following issues related to Section 2 of the May 5, 2014 letter agreement for the period up to and including fiscal year 2018, effective July 1, 2014 (as seen below):

Up to an additional total amount of \$150 million will be available over the four year period from the Stabilization Fund for the welfare funds, the allocation of which shall be determined by the parties. Thereafter, \$ 60 million per year will be available from the Stabilization Fund for the welfare funds, the allocation of which shall be determined by the parties.

The parties agree that the allocation of up to \$150 million over the four year period from the Stabilization Fund shall be distributed in the following manner:

- Effective July 1, 2014, there shall be an increase to the Employer's contribution to the Union-administered welfare funds by \$25 per annum.
- Effective July 1, 2015, there shall be an additional increase to the Employer's contribution to the Union-administered welfare funds by \$25 per annum, for a total of \$50 per annum.
- Effective July 1, 2016, there shall be an additional increase to the Employer's contribution to the Union-administered welfare funds by \$25 per annum, for a total of \$75 per annum.
- Effective July 1, 2017, there shall be an additional increase to the Employer's contribution to the Union-administered welfare funds by \$25 per annum, for a total of \$100 per annum and for every year thereafter.

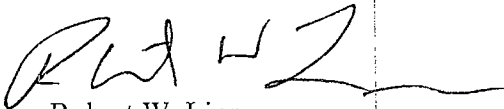
Every year thereafter, \$60 million from the Stabilization Fund will be allocated to the Welfare Funds, as determined by the parties.

These payments shall be made on behalf of each full time per annum employee and retiree or other applicable equivalent for other than full time per annum employee or retiree. For other than full time per annum employees and retirees, payment shall be in accordance with the applicable welfare fund agreement.

If the \$150 million sum is greater or less than the monies required to maintain contributions as listed above, the parties agree to convene a labor-management meeting.

Individual letters will also be mailed to the respective Welfare Funds, execution of which shall serve to modify the Welfare Fund agreements, in accordance with what was previously agreed to by the City and the MLC, and requiring the incorporation of the amendment into their individual Welfare Fund trust agreements. The implementation of the modification to the individual Welfare Fund trust agreements will be in accordance with the past practice of the \$65 Welfare Fund increase. If the above accords with your understanding and agreement, kindly execute at the signature line provided.

Sincerely,



Robert W. Linn
Commissioner

Agreed and Accepted on behalf of the Municipal Labor Committee

BY: _____



Harry Nespoli, Chair

Multi-year Appointments for Teaching Adjuncts

June 16, 2016

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.

March 18, 2016

Dr. Barbara Bowen
President
Professional Staff Congress/CUNY
61 Broadway, 15th Floor
New York, NY 10006

Dear Dr. Bowen:

This is to confirm the parties' understanding that appointments to the Distinguished Professor title are expected to contribute to the University's commitment to recruit and retain an excellent faculty representing a rich diversity of gender, ethnicity and race. Your signature on the line set forth below confirms the Union's agreement with this principle.

Sincerely,

Pamela S. Silverblatt
Vice Chancellor for Labor Relations

AGREED: For the Professional Staff Congress/CUNY Date

June 15, 2016

CLIP/CUNY Start

- The University will create two new full-time titles: CLIP Instructor and CUNY Start Instructor.
- The CLIP and CUNY Start Instructor titles will be included in the PSC bargaining unit but excluded from the provisions of the Agreement with the exception of Articles 3, 4, 5, 7, 8, 17, 38, 39, 40, 41, and 43.
- Co-op teachers in CUNY Start will continue to receive 6-month CET appointments.
- CLIP teachers who do not wish to work during the summer will continue to receive 6-month CET appointments and will be paid based on the 3/19/11 CLIP Hourly Rate Schedule.
- New titles to have annualized salary. Salary schedule to be equivalent to the Lecturer schedule. Incumbents will be moved to the equivalent salary based on 1230 hours of work per year.
- New titles to have annualized health insurance and participate in the PSC-CUNY Welfare Fund.
- January 1st movement in salary schedule (*i.e.*, step increases) after at least ten full months of service.
- CUNY Start Instructors with the functional title of Lead Instructor will receive a salary differential in the amount of \$5,300.
- Workload of 1,230 hours per year (including teaching and program days), exclusive of paid holidays. (Annual appointment periods to begin in August.)

- Annual leave will not accrue but will be taken when the programs are not in session.
- Sick leave accruals of 20 days per year, with a cap of 60 days.
- May participate in the Dedicated Sick Leave and Catastrophic Sick Leave Bank programs, in accordance with the terms of those policies.
- May participate in the HEO/CLT Professional Development Fund, set forth in Article 33.5 of the PSC-CUNY collective bargaining agreement.
- Existing observation/evaluation process remains in effect for CUNY Start.
- For CLIP, a teaching observation and/or an evaluation may be conducted at the request of the Campus Director or the CLIP Instructor, provided, however, that if such observation/evaluation is conducted at the request of the CLIP Instructor, such observation/evaluation may not be conducted more than once a year.
- Grievance process: Article 20 of the PSC-CUNY collective bargaining agreement.
- CLIP/CUNY Start Instructors shall be subject to discharge for just cause subject to the grievance and arbitration process set forth in Article 20 of the PSC-CUNY collective bargaining agreement.
- The parties shall convene a labor-management committee to discuss appointment/non-reappointment letters, notification dates and personnel files.

Medical Separation Leave Procedure

1. The following procedures provide an alternative to the use of the Article 21 disciplinary process for employees who are unable to perform the duties of their positions by reason of a physical or mental incapacity. CUNY, in its discretion, may either commence disciplinary proceedings in accordance with Article 21 or may place an employee on a medical leave of absence ("medical leave") according to the following procedures.
2. When in the judgment of CUNY an employee is unable to perform the duties of his or her position by reason of a physical or mental incapacity, including any such incapacity caused by substance abuse, and CUNY opts to follow the Medical Separation Leave procedures in lieu of Article 21, the president of the employee's college, or his or her designee, having consulted with CUNY, shall send written notice of the facts providing the basis for CUNY's judgment that the employee is not fit to perform the duties of his or her position ("the notice"), along with a copy of the employee's job description, to the employee, the PSC, CUNY's Office of the General Counsel and the PSC-CUNY Welfare Fund ("Welfare Fund") at least fourteen (14) calendar days prior to the commencement of the medical leave. Such notice, stating the start date of the medical leave, shall be sent to the employee's college email address, as well as to the employee's home address on file by first class mail.
3. An employee who wishes to contest the placement on leave may, within fourteen (14) calendar days of the date of the notice, request an independent medical examination in accordance with paragraph 5 below, by written notice to the Welfare Fund, with copies to the PSC and to CUNY's Office of the General Counsel. As a condition precedent to an independent medical examination, the employee must meet requirements regarding waivers, release forms and other documents specified by the Welfare Fund. Failure to do so will result in forfeiture of the opportunity to receive an independent medical examination.
4. The Welfare Fund Board of Trustees shall select and enter into a contract with a third-party vendor ("the provider") that will provide Board-certified medical practitioners in appropriate areas of practice, including, but not limited to, psychiatry, neurology, orthopedic medicine and internal medicine, to conduct independent medical examinations in accordance with the terms of this Article.

Should the Welfare Fund fail to retain a provider – either within 90 calendar days [Welfare Fund to review] of the ratification date of the successor to the 2007-2010 collective bargaining agreement or as needed in the future – the medical separation procedures set forth in this Article shall be considered null and void in their entirety.

5. Upon receipt of a written request from an employee seeking an independent medical examination, the Welfare Fund shall direct the provider to appoint a medical practitioner from an appropriate area of practice to conduct the examination and shall furnish the provider with a copy of CUNY's notice and the employee's job description referred to in paragraph 2. Within 60 calendar days of the Welfare Fund's receipt of the employee's request for a medical examination, the Welfare Fund shall deliver to CUNY's Office of the General Counsel, with notice to the PSC of said delivery, a copy of the medical practitioner's report regarding the employee's fitness to perform the duties of his or her position and copies of the medical practitioner's diagnoses, test results, observations and other data relied upon, if any. The Welfare Fund shall also provide copies of the report and the above-cited materials to the employee. The Welfare Fund shall maintain the originals in a confidential file.
 - (a) If the medical practitioner certifies that the employee is fit to perform the duties of his or her position, the employee shall be removed from medical leave and returned to active status within seven (7) calendar days following CUNY's receipt of the medical practitioner's report.
 - (b) If the medical practitioner certifies that the employee is not fit to perform the duties of his or her position, CUNY shall continue the employee's medical leave of absence. CUNY shall send the employee and the PSC written notice of the continuation of the leave. The notice of continuation shall also inform the employee of his or her rights under Section 6 of these procedures.
6. Within fourteen (14) calendar days from receipt by the employee of medical certification that the employee is not fit to perform the duties of his or her position, the PSC may file a demand for arbitration on the question of the employee's fitness for duty by serving written notice to that effect by certified mail, return receipt requested, directed to the Chancellor or the Chancellor's designee. The parties shall designate an individual arbitrator to hear cases under this provision from among those mutually agreed to under Article 20.5 of the collective bargaining agreement, and the arbitration will be conducted in accordance with American Arbitration Association rules. The parties shall schedule a hearing to be held within 45 calendar days and completed within 90 calendar days of the University's receipt of the demand for arbitration, and a decision shall be rendered by the arbitrator within 45 calendar days of the close of the hearing. Closing arguments shall be made orally at the last day of the hearing; closing briefs will not be submitted. The Arbitrator shall determine, based on the evidence, whether the employee is fit to perform the duties of his or her position. Should the arbitrator determine that the employee is not fit to perform the duties of his or her position, CUNY shall continue the employee's medical leave of absence. Should the Arbitrator determine that the employee is fit to perform the duties of his or her position, the employee shall be removed from medical leave and returned to active status. The burden of proving mental

or physical fitness shall be upon the employee. The costs of arbitration shall be borne equally by the parties.

7. A medical leave under this section shall be for one year from the start date of the Medical Separation Leave in the notice in paragraph 2. The employee shall remain in paid status for the first six months of the leave and thereafter may utilize his or her temporary disability leave and/or annual leave accruals, if any, and may apply for long-term disability to the extent available through the Welfare Fund, [*Welfare Fund to review*] or to use the Catastrophic Sick Leave Bank or the Dedicated Sick Leave Program, in accordance with the terms of those policies, to the extent that he or she is eligible. An employee who is contesting his or her placement on medical leave or seeking to return to duty will not be eligible for the Sick Leave Bank or Dedicated Sick Leave Program, inasmuch as both programs require an acknowledgement from the employee that he or she is catastrophically ill (for the Sick Leave Bank) or seriously ill (for the Dedicated Sick Leave Program) and both require supporting medical documentation. Should the employee exhaust available accruals prior to the expiration of the medical leave, the remainder of the medical leave shall be unpaid.
8. An employee placed on medical leave may seek to return to duty by making a written application to the Welfare Fund, with copies to the PSC and to CUNY's Office of the General Counsel, for a medical examination by a medical practitioner selected by the provider, who should be different from the medical practitioner who conducted the initial medical examination under paragraph 5 above, to the extent a different practitioner is available. Such application may be made no earlier than 120 days from the commencement of the medical leave and no later than one year from the commencement of the leave.

The procedures and time frames for the appointment of a medical practitioner and issuance of a report shall be the same as those in paragraph 5 above. If the medical practitioner certifies that such employee is fit to perform the duties of his or her position, the employee shall be removed from medical leave and returned to active status within seven (7) calendar days following CUNY's receipt of the medical practitioner's report. An arbitration filed in accordance with paragraph 6 above that is still pending at the time the employee applies for a return-to-duty medical examination under this paragraph 8 shall be deemed to be withdrawn with prejudice as of the date of receipt by the Welfare Fund of the medical practitioner's report regarding the employee's fitness to return to duty. The PSC shall notify the Arbitrator of the withdrawal.

9. After an employee has been on medical leave for one year, he or she shall be separated from employment at CUNY. No such separation shall occur if any proceedings to establish the employee's fitness under these procedures are pending. When proceedings are completed, the employee shall either be separated from employment or returned to active status, according to the outcome.

10. Following any determination under section 5(a), section 6, or section 8 above that an employee is fit to perform the duties of his or her position or in the event that the report regarding the employee's fitness is not delivered to CUNY within 60 calendar days of the Welfare Fund's receipt of the employee's request for an independent medical exam, CUNY may terminate the employee's medical leave and commence disciplinary proceedings in accordance with Article 21.

11. To fund the establishment and administration of this program, CUNY shall deposit \$35,000 per year into a dedicated fund with the Welfare Fund, from which the Welfare Fund may draw up to \$5,000 per year in administrative costs. On or before July 31 of each year, the Welfare Fund shall provide CUNY with an annual accounting of the expenditures with regard to any or all independent medical examinations, including any medical tests conducted and administrative costs incurred during the prior fiscal year (July 1 through June 30). In addition to the annual accounting, the Welfare Fund shall notify CUNY in writing at such point in time as it has encumbered \$25,000 of the funds dedicated to this program. Any funds remaining in one fiscal year shall be credited against CUNY's contribution in the next fiscal year. Any shortfall in a given year shall be reimbursed by CUNY in the next fiscal year. Such reimbursement shall be made by September 30, provided that timely written notice of reaching the \$25,000 threshold was given to CUNY. If the medical separation process is declared null and void pursuant to paragraph 4 above, or for any other reason, unexpended funds shall be returned to CUNY.

Side Letter on Tuition Waivers

A labor-management committee will be established to examine the current use of undergraduate tuition waivers provided to full-time members of the instructional staff under Article 29. The committee will explore a limited delegation of the current benefit through a pilot program that will allow full-time instructional staff to transfer certain benefits to a dependent child.

ARTICLE 21

~~REDACTED~~

21.1 (a) Members of the Instructional Staff may be disciplined by removal, suspension with or without pay, or any lesser form of discipline for one or more of the following reasons, except that staff in HEO series titles shall be subject to discharge as provided in Article 21.8, and Adjuncts shall be subject to discharge as provided in Article 21.10:

- (i) Incompetent or inefficient service;
- (ii) Neglect of duty;
- (iii) Physical or mental incapacity;
- (iv) Conduct unbecoming a member of the staff. This provision shall not be interpreted so as to constitute interference with academic freedom.

21.1 (b) No disciplinary proceeding shall be initiated against a member of the instructional staff more than 24 months after discovery by the college or unit of CUNY of the occurrence of the latest incident forming the basis of the discipline. In the event that such member of the instructional staff has been non-reappointed and a grievance has been filed challenging that non-reappointment, CUNY shall have 120 days from the date that the grievance is finally resolved to initiate a disciplinary proceeding against such employee. If a member of the instructional staff is placed on medical leave under the Medical Separation Procedure, and the medical leave is terminated and the bringing of Article 21 disciplinary charges is permitted under that procedure, CUNY shall have 120 days from the date that the medical leave is terminated to initiate a disciplinary proceeding against such employee.

21.2 Disciplinary proceedings shall be initiated by the President of the college by the service of written charges upon the employee, with a copy to the PSC, which shall set forth:

- (a) the charges against the employee, including a description of each violation charged; and
- (b) the proposed penalty.

21.3 Within fourteen (14) calendar days of service of the charges, a meeting shall be conducted by the President or his or her designee with the employee, who may be accompanied by an attorney or representative of the Professional Staff Congress, to discuss the charges, the proposed penalty, and the basis of the charges.

21.4 Within fourteen (14) calendar days of the meeting described in Section 21.3, the President shall either:

- (a) Withdraw the charges, or
- (b) State his/her intention to proceed with the charges, including a recommended penalty.

21.5 If the President states an intention to proceed with the charges within seven (7) days of service of that notice the employee shall be provided with copies of the primary non-privileged documents relied upon in preparing the charges and a list describing the documents withheld due to claims of privilege. Nothing herein affects the PSC's or the employee's right to seek additional information under this Agreement and the applicable law.

21.6 Within fourteen (14) calendar days of service of the President's written statement to proceed with the charges and recommended penalty, the employee may:

(a) Acquiesce to the charges and accept the recommended penalty by written notification to the President; or

(b) Appeal by proceeding to disciplinary arbitration in accordance with Section 21.7.

21.7 Disciplinary Arbitration

(a) The procedures for selecting an arbitrator and scheduling the arbitration hearing shall be governed by Article 20.5(a), except that (1) the first arbitrator in order who is available to conduct a hearing within sixty (60) calendar days shall serve as the arbitrator; and (2) the notice of appeal to disciplinary arbitration shall be filed by service upon the Vice Chancellor for Legal Affairs and the American Arbitration Association. A copy of the appeal shall be sent simultaneously to the College President.

(b) The disciplinary arbitrator shall hold a disciplinary arbitration hearing within sixty (60) calendar days of designation, or on such other date as may be mutually agreed upon by the parties. The disciplinary arbitrator shall render a decision within thirty (30) calendar days of the close of the hearing. The arbitrator shall follow AAA procedures.

(c) The disciplinary arbitrator shall be limited to determinations of guilt or innocence and the sufficiency of grounds for the penalty. The arbitrator shall not consider alleged violations of any other provision or article of this Agreement, or of the University Bylaws or written policies, which shall be subject, as applicable, only to the provisions of Article 20 of this Agreement. The disciplinary arbitrator shall not add to, subtract from, or modify the provisions of this Agreement. The disciplinary arbitrator's decision regarding guilt or innocence and the sufficiency of grounds for the penalty shall be final and binding upon the parties. The disciplinary arbitrator may approve or disapprove the penalty or impose other penalties warranted under the circumstances.

21.8 Employees in titles in the Higher Education Officer Series shall be subject to immediate discharge for just cause.

(a) Disciplinary proceedings shall be initiated by the President of the college by service, personally or by certified mail, of a written Notice of Intent for Immediate Discharge upon the employee, with a copy to the PSC, which set forth:

1. the charges against the employee, and
2. the proposed penalty of immediate discharge.

(b) Within three (3) days, exclusive of Saturdays, Sundays, and legal holidays, of service of the written notice of Intent for Immediate Discharge, a meeting shall be conducted by the President or his or her designee with the employee, who may be accompanied by an attorney or a representative of the Professional Staff Congress, to discuss the notice, the basis of the charge, and the proposed penalty.

(c) If the employee fails to appear at the meeting, the President may issue a Notice of Immediate Discharge which shall be effective immediately.

(d) Within twenty-four (24) hours of the meeting described in Section 21.8(b), the President shall either:

1. Withdraw the Notice of Intent for Immediate Discharge;
2. Issue a Notice of Immediate Discharge which shall be effective immediately; or
3. Issue a Notice of Charges under Section 21.2 seeking a lesser penalty than dismissal.

4. If the President issues a notice of immediate discharge or notice of charges within seven (7) days of service of that notice the employee shall be provided with copies of the primary non-privileged documents relied upon in preparing the charges and a list describing the documents withheld due to claims of privilege. Nothing herein affects the PSC's or the employee's right to seek additional information under this Agreement and the applicable law.

(e) Within fourteen (14) calendar days of service of the Notice of Immediate Discharge, the employee may appeal by proceeding to disciplinary arbitration in accordance with Section 21.7.

21.9 Any person against whom charges have been made may, at any time during the pendency of the charges, be suspended by the president of the college. Such suspension shall be without loss of pay.

A person suspended with pay shall be available for all procedures mandated by Article 21. Upon suspension with pay, notwithstanding any other provision of this Agreement, any request to be absent from any aspect of these procedures must be approved in advance by the Vice Chancellor for Labor Relations upon the recommendation of the President. Failure to be available for any Article 21 proceeding without said approval of a request to be absent for the period specified in the approval of the request shall result in loss of pay status for a period of three weeks. Such period of non-pay status shall be discontinued as of the date of the proceeding if a proceeding under this article is scheduled and held within that three-week period. If, however, the person continues to be unavailable, the person shall be subject to further removal from pay status for successive three-week periods until such time as the proceeding is scheduled and held. Said loss of pay status cannot be charged to annual leave, temporary disability leave, or other paid leave.

21.10 Adjuncts shall be subject to discharge for just cause, subject to the Grievance and Arbitration article and not to Article 21 of this Agreement.

21.11 The procedures provided by this Article 21 are modified and expedited as follows for disciplinary charges brought against instructional staff members who have been convicted of a felony:

(a) Disciplinary proceedings shall be initiated by the President of the College by preferment of charges upon the employee, with a copy to the PSC. The Charges will be preferred via overnight mail. The recommended penalty will be discharge.

(b) Within three (3) calendar days of receipt of the President's statement of charges, unless the penalty has been accepted by the employee, notice of appeal to disciplinary arbitration shall be filed by service upon the Vice Chancellor for Legal Affairs and the American Arbitration Association. A copy shall be sent simultaneously to the College President.

(c) The case shall be assigned to an arbitrator to be selected in accordance with Section 21.7.a. These cases will be given priority for assignment.

(d) The disciplinary arbitrator shall hold a disciplinary arbitration hearing within ten (10) calendar days of designation. The disciplinary arbitrator shall render a decision within five (5) calendar days of the close of the hearing.

(e) Any person convicted of a felony against whom disciplinary charges have been made may, at any time during the pendency of the charges, be suspended without pay by the president of the college.

(f) Conviction of a felony shall create a presumption of conduct unbecoming a member of the staff. The employee may argue to the arbitrator that there were extenuating circumstances that would permit the arbitrator to conclude that a less severe penalty is warranted.

(g) Should a court of final jurisdiction overturn the conviction, there shall be a right to a hearing before an arbitrator upon application for restoration to service. The issue in the hearing will be whether grounds for discharge pursuant to Article 21.1(a) existed, notwithstanding the reversal of the conviction.

(h) The parties recognize that an employee may be convicted of a felony after charges have been preferred and that the disciplinary procedures in Article 21 may have commenced prior to the conviction. In such a case, the procedures outlined above will replace Article 21 procedures at the appropriate stage to which the charges had progressed immediately prior to the conviction.

21.12 A disciplinary proceeding brought pursuant to this article may be resolved by settlement only if agreed to in writing by the Office of Labor Relations and by the PSC Central Office.

TEACHING LOAD REDUCTION LABOR-MANAGEMENT COMMITTEE

Under the current collective bargaining agreement, the annual contractual workload for undergraduate teaching is among the highest of peer institutions. The University and the Professional Staff Congress (PSC) are committed to a shared goal of reducing the annual undergraduate teaching contact hour workload for full-time classroom teaching members of the instructional staff by 3 teaching contact hours. This reduction will allow for additional time for such activities as student and academic advisement, office hours, academic research and such other activities that allow the University to improve our students' success and outcomes. The proposed reduction would be subject to the recommendations of a joint University and PSC labor-management committee, which will be convened no later than October 1, 2016. The labor-management committee will develop a plan for implementing the reduction and identifying resources to cover the costs. The University and PSC agree that the implementation of these recommendations will occur no later than the ratification of the successive collective bargaining agreement to the 2010-2017 collective bargaining agreement.

Side Letter on Business School Salaries

The parties agree to convene a Labor-Management Committee to examine and make recommendations regarding the current full-time and part-time salary schedules at the business schools at CUNY colleges.