

SETTLEMENT AGREEMENT

The Professional Staff Congress/CUNY

-and-

The City University of New York

Re: Substitutes

The undersigned parties agree as follows:

1. The Professional Staff Congress/CUNY ("PSC") hereby withdraws with prejudice the grievance filed to arbitration on or about December 6, 1999, AAA Case No. 13 390 01725 99, regarding the alleged "...improper appointment of covered members of the Instructional Staff to substitute titles."
2. The PSC agrees to withdraw with prejudice any other outstanding actions, appeals, proceedings, claims, complaints, grievances, or arbitrations pending in any court, administrative agency, or other forum or tribunal, and further agrees not to initiate any action, appeal, proceeding, claim, complaint, grievance, or arbitration in any court, administrative agency, or other forum or tribunal, against The City University of New York or any of its officers, employees, or agents, regarding the alleged improper appointment of covered members of the Instructional Staff to substitute titles for any period preceding the last date listed below in this Settlement Agreement.
3. Effective for any appointments made on or after the start of the spring 2011 semester, the University may fill positions using substitute titles under section 9.7 of the PSC-CUNY Collective Bargaining Agreement ("Agreement") in the following circumstances, with additional terms and conditions as set forth in paragraphs "4" through "10" below:
 - a) for up to a maximum of four (4) consecutive semesters during the pendency of a search to fill a teaching instructional staff position;
 - b) for up to a maximum of two (2) consecutive 6-month periods during the pendency of a search to fill a non-teaching instructional staff position;
 - c) during the duration of a contractual disciplinary proceeding or a legal proceeding challenging severance of employment of an incumbent until the final disposition of the contractual disciplinary proceeding or legal proceeding challenging the severance of employment;
 - d) during the duration of a vacancy owing to the prolonged disability of an incumbent, until the return to work of the incumbent or the severance of the incumbent's employment and authorization to conduct a search to fill

his/her position, as long as the authorization to conduct a search is issued during the same semester as the severance of employment or at the beginning of the immediately subsequent semester, at which point the provisions of paragraphs "3.a" or "3.b" pertain; during the duration of a vacancy owing to the death or unanticipated resignation or retirement of an incumbent, for a period of no more than two semesters in the case of a teaching instructional staff member or six months in the case of a non-teaching instructional staff member. As soon as authorization is issued to conduct a search to fill the incumbent's position, the provisions of paragraphs "3.a" or "3.b" pertain;

e) during the duration of vacancies owing to authorized leaves of absence, including Travia Leave;

f) during the duration of vacancies owing to the grant of full-time reassigned time for PSC or University Faculty Senate business. Use of a substitute title for this purpose shall not alter the meaning of section 6.5 of the Agreement.

4. Each substitute appointment shall be for a maximum of a semester or equivalent 6-month period, except that a substitute appointment in the Higher Education Officer ("HEO") series may be made for a period up to the length of time needed to fulfill the requirements of section 13.10 of the Agreement.
5. Appointment of a substitute shall be limited to the department or office, as appropriate, in which the vacancy occurs as set forth in paragraphs "3.a" through "3.f."
6. An individual may serve as a substitute in a teaching instructional staff capacity at a particular college for no more than four (4) semesters out of any six (6) semesters. After the four (4) semester limit is reached at a particular college, the individual may not serve as a substitute in any instructional staff title at that same college for at least four (4) semesters after the end of the last semester in which s/he served as a substitute. Notwithstanding the provisions of this section, a college may permit an employee to exceed the above-described limits upon an individual's substitute service at a particular college, provided the college has obtained a separate written waiver for each additional semester from the PSC and the CUNY Office of Human Resources Management in accordance with section 14 of this Settlement Agreement.
7. An individual may serve as a substitute in a non-teaching instructional staff capacity at a particular college for no more than two six-month periods out of any twenty-four months. After the two six-month appointment limit is reached at a particular college, the individual may not serve as a substitute in any instructional staff title at that same college for at least twelve months after the end of the last period in which s/he served as a substitute. Notwithstanding the provisions of this section, a college may permit an employee to exceed the above-described limits upon an individual's substitute service at a particular college, provided the college has obtained a separate written waiver for each

additional six-month period from the PSC and the CUNY Office of Human Resources Management in accordance with section 14 of this Settlement Agreement.

8. Service as a substitute shall not count as service credit toward tenure or toward a Certificate of Continuous Employment. Service as a substitute Instructor shall not count as Instructor service for the purposes of limitation of service or of sections 9.8 or 12.6 of the Agreement. An individual who serves as a substitute in a HEO series title at a particular college, who receives a consecutive appointment to a regular HEO series position at the same college at which the substitute service was performed, shall receive a maximum of two years of service credit toward a multiple year appointment or a Certificate of Continual Administrative Service ("CCAS"), *i.e.*, "13.3b". Service as a substitute will be credited on the same basis as service in non-substitute titles is credited under Article 13 of the CUNY-PSC agreement, except that substitutes shall receive service credit for two non-consecutive years of service at the same college if there is no more than a one-year interruption between those two years. Notwithstanding the foregoing, the employee must serve for at least one full year in a regular HEO appointment to be eligible for consideration for a 13.3b appointment.
9. If service as a substitute is immediately preceded by full-time continuous service creditable for tenure, a Certificate of Continuous Employment, or a multiple year or a 13.3.b appointment and is immediately followed by such full-time continuous service, the period of creditable service immediately preceding the substitute service shall be counted in computing the years of service required for the granting of tenure, the granting of a Certificate of Continuous Employment, or the granting of a multiple year or 13.3.b appointment, except as otherwise specified in this Settlement Agreement.
10. Service as a substitute shall count for purposes of movement within salary schedule and salary schedule changes. However, except as otherwise specified in this Agreement, when an individual has served as a substitute immediately followed by full-time service in a non-substitute (regular) annual appointment, such non-substitute annual appointment shall be considered the initial year of appointment for all other purposes except movement in salary schedule, in which case the period of substitute service shall be creditable toward movement in salary schedule.
11. Substitutes must be evaluated in accordance with the guidelines of Article 18 of the Agreement. It is understood that Substitutes shall not be required to have a research commitment. If a substitute is employed for two consecutive semesters, one of which is a semester during which the department/unit performs annual evaluations, such annual evaluation shall be performed for the substitute.
12. Substitutes are not subject to the reappointment process. They may not be considered for reappointment by Personnel & Budget ("P & B") committees. Substitutes do not receive notice of non-reappointment, inasmuch as they may not be considered for reappointment. Substitutes may, however, be given a series of consecutive semester/6-month appointments as substitutes, consistent with paragraphs "3", "6" and "7" above.

13. Employee health, welfare and pension benefits for substitutes are the same as those benefits applicable to other employees hired on a non-substitute (*i.e.*, regular) annual salary basis. The leave regulations applicable to the regular position being substituted shall be applied to the substitute.
14. Any request to exceed or alter the limits set forth in paragraphs "3", "6" and "7" will require a written waiver signed by the President of the PSC or his/her designee and the Chancellor or his/her designee, as set forth in Article 43.2 of the Agreement. Unless otherwise notified in writing, the Chancellor's designee for this purpose shall be the Office of Human Resources Management.
15. If a member of the teaching instructional staff is appointed as a substitute for a fifth consecutive semester at the same college, the "teaching contact hour workload" for the substitute title shall be governed by the terms set forth for the underlying non-substitute title in Appendix A of the Agreement, for the fifth consecutive semester and all subsequent consecutive semesters.
16. The PSC shall be provided with a list of substitutes on a semester basis no later than December 1st for appointments effective in the fall semester and May 1st for appointments effective in the spring semester.
17. This Settlement Agreement constitutes the entire agreement entered into by the parties; it cannot be supplemented, amended, or modified in any manner, except in a writing signed by both of the parties to this Settlement Agreement. The February 20, 1980 Catalano memorandum shall be null and void upon execution of this Settlement Agreement.
18. The parties agree that all disputes arising under this agreement shall proceed directly to Step Two of the grievance and arbitration procedure.
19. All other provisions of the Agreement that apply to the title underlying the substitute title, and not changed by paragraphs "1" through "17", shall continue in effect.
20. This Settlement Agreement shall be binding only upon its execution by both of the parties listed below.

Deborah S. Bell 7/28/10
For the Professional Date
Staff Congress/CUNY

[Signature] 8/19/10
For The City University Date
of New York