

**MEMORANDUM OF UNDERSTANDING
BETWEEN
THE UNIVERSITY OF HAWAII, BOARD OF REGENTS AND
THE UNIVERSITY OF HAWAII PROFESSIONAL ASSEMBLY
ARTICLE XII, TENURE AND SERVICE AND ARTICLE XIII, FACULTY
APPOINTMENTS NOT ELIGIBLE FOR TENURE**

This Memorandum of Understanding ("MOU") is made this _____ day of June 2020, by and between the University of Hawaii Professional Assembly ("Union"), and the Board of Regents of the University of Hawai'i ("Employer"), hereinafter collectively referred to as the "Parties".

WHEREAS, in late December 2019 an outbreak of respiratory illness caused by a novel coronavirus was first identified and has since been named COVID-19; and

WHEREAS, on January 30, 2020, the World Health Organization declared the outbreak of COVID-19 a public health emergency of international concern; and

WHEREAS, on January 31, 2020, the United States Secretary of Health and Human Services declared the outbreak of COVID-19 a public health emergency for the United States; and

WHEREAS, on January 31, 2020, the President of the United States declared a health emergency and issued an order subjecting certain Americans returning from China to mandatory quarantine or active screening, and limiting incoming flights from China to seven designated United States Airports, including Daniel K. Inouye International Airport in Honolulu; and

WHEREAS, on March 4, 2020, Governor David Y. Ige signed his first Emergency Proclamation for the State of Hawaii regarding the COVID-19 pandemic; and

WHEREAS, on March 13, 2020, the President of the United States of America declared a national emergency in response to the COVID-19 pandemic; and

WHEREAS, Governor David Y. Ige has so far signed a total of nine (9) Supplemental or Supplementary Proclamations over COVID-19 dated March 16, 2020, March 21, 2020, March 23, 2020, and March 31, 2020, April 17, 2020, April 25, 2020, and May 5, 2020, May 18, 2020, and June 10, 2020; and

WHEREAS, on March 12, 2020, University of Hawaii President David Lassner made a decision that the University of Hawaii system would switch to online classes effective Monday, March 23, 2020 through and including Wednesday, April 15, 2020 because of concerns about the coronavirus pandemic; and

MOU - ARTICLE XII, TENURE AND SERVICE AND ARTICLE XIII, FACULTY
APPOINTMENTS NOT ELIGIBLE FOR TENURE

WHEREAS, on March 18, 2020, University of Hawaii President David Lassner amended his prior decision made on March 12, 2020 and informed the University of Hawaii community that all classes across the University of Hawaii system would be delivered online through the remainder of the spring 2020 semester; and

WHEREAS, a common concern expressed by Unit 7 Faculty across the ten (10) campus system is that the unanticipated switch to online instruction due to COVID-19 will have, including but not limited to, the possible negative consequences and impact in the areas of tenure, promotion, and contract renewal; and

WHEREAS, the Parties recognize that due to the unanticipated changes that have occurred during the Spring 2020 semester, a number of Unit 7 Faculty could be adversely and negatively impacted in their tenure, promotion, and contract renewal processes which are based on the requirements of face-to-face evaluations, peer evaluations, student evaluations, application deadlines, conducting and disseminating research, and other faculty work; and

WHEREAS, pursuant to HRS, §89-10(a), the Employer and Union wish to enter into this MOU to amend ARTICLE XII, TENURE AND SERVICE and ARTICLE XIII, FACULTY APPOINTMENTS NOT ELIGIBLE FOR TENURE of the 2017-2021 Unit 7 Agreement to address the concerns mentioned above.

NOW, THEREFORE, by mutual agreement the Employer and Union agree as follows:

1. ARTICLE XII, TENURE AND SERVICE, Paragraph C. PROBATIONARY PERIOD, Section 2. Duration of Probationary Period and Section 3. Contracts During Probationary Period, shall be amended to read as follows:

2. Duration of Probationary Period.

- a. The probationary period is five (5) probationary years while in salary classifications A-2, B-2, S-2, I-3, R-3, A-3, B-3, S-3, and C; three (3) years while in classifications I-4, R-4, A-4, B-4, and S-4; and two (2) years while in classifications I-5, R-5, A-5, B-5, and S-5.
- b. The probationary period for any Faculty Member may be lengthened, or shortened, or eliminated by specific action of the Employer either at the request of the Faculty Member, or upon the initiative of the Employer with the concurrence of the Faculty Member, but in no instance may the total full-time probationary service exceed seven

MOU - ARTICLE XII, TENURE AND SERVICE AND ARTICLE XIII, FACULTY APPOINTMENTS NOT ELIGIBLE FOR TENURE

(7) years. Service at other institutions, including other campuses of the University of Hawaii, may be credited to the probationary period. The Employer shall notify the Faculty Member, in writing, of the decision to lengthen, shorten, eliminate or in any way alter the normal probationary period. If tenure is denied, the Faculty Member will be given a terminal one-year (1-year) appointment.

Faculty Members employed during the Spring 2020 semester may, by memo jointly addressed to their Chair and Dean, elect to extend their probationary period for an additional year; provided that the length of the probationary period does not exceed eight (8) years. Such memo may be in electronic or paper form, and must be received on or before the applicable tenure application deadline in Fall 2020. A copy of the memo shall be kept in the Faculty Member's official personnel files.

- c. The probationary period may be interrupted during periods when the Faculty Member does not hold a full-time contract. If the Faculty Member signs a contract for a non-tenure track position, the probationary period may also be interrupted. If the Faculty Member agrees to be transferred by the administrative head to a non-tenure track position, the Faculty Member shall continue to accrue probationary credit. By specific agreement in writing in advance, the Faculty Member and the Employer may agree that periods when the Faculty Member is serving in a non-tenure track position will count toward the probationary period.

Faculty Members who have leaves of absences with or without pay during the probationary period must be aware that such leave will not necessarily be credited toward their probationary period. Leaves of absences of a duration not greater than thirty (30) days during probationary periods shall be credited toward the probationary period. Credit for periods of leaves of absences, with or without pay, which exceed thirty (30) days in duration shall be approved in writing by the Employer before such leaves are taken, and in the absence of such approval, the leave period will not be credited.

Once a Faculty Member has submitted a tenure application in a timely manner, probationary credit for that year shall be applied even if a leave of absence occurs due as a result of being on sick leave or family leave. The period of the leave, paid or unpaid, shall be credited to the probationary period.

- d. A Faculty Member with full-time non-probationary service in one of the Ranks specified in Paragraph C.2.a. above who accepts a probationary appointment without a break in service at the same Rank and with the same duties shall, upon written request, be granted a reduction in probationary period. The Faculty Member's probationary period shall be as provided in Paragraph C.2.a. reduced by the number of full years of service in the prior non-probationary appointment as defined above; however, the probationary period shall not be less than one (1) full year or two (2) semesters.
- e. Faculty Members with service in a Rank which does not count as probationary service may, upon promotion to a Rank which is probationary, request a shortening of the normal probationary period by up to three (3) years, or the number of years of such non-probationary service, whichever is smaller.
- f. A Faculty Member in salary classification I-3 or R-3 shall be awarded promotion to Rank 4 without separate application if granted tenure. The decision to grant tenure shall include a determination that the Faculty Member qualifies for promotion to the Rank in which tenure is granted.
- g. A Faculty Member in salary classification C-2 shall be awarded promotion to Rank 3 without separate application if granted tenure. The decision to grant tenure shall include a determination that the Faculty Member qualifies for promotion to the Rank in which tenure is granted.

3. Contracts During Probationary Period

Initial appointment to the Faculty, by contract, shall be for a two-year (2) period. In the C and I classifications, the initial contract will usually be effective August 1 and continue through July 31 of the last year of the initial contract. If the Faculty Member is to be reappointed, a new contract will be offered which becomes effective August 1. For Faculty Members at Rank 2 or 3, this contract shall be for two (2) years and may be followed by one-year (1-year) contracts effective August 1, with the terminal year usually ending July 31. Faculty at all other ranks who are to be reappointed shall be given one-year (1-year) contracts effective August 1 with the terminal year ending July 31. Additional contract renewals shall be for one-year (1-year) terms not to exceed seven (7) years of full-time probationary service unless an extension is requested under 2.b. above.

Faculty Members expected to undergo contract renewal in the Fall 2020 semester may elect to extend their contract and postpone their contract renewal by one year. Faculty Members electing to extend their probationary period shall be required to submit a memo declaring their election jointly addressed to their Chair and Dean by the due date of that applicable year's contract renewal application. A copy of the memo shall be kept in the Faculty Member's official personnel files.

Any probationary Faculty Members electing to postpone their contract renewals may receive feedback from their Department on their accomplishments.

If the probationary Faculty Member is in their initial contract in Spring 2020 and elects to postpone their contract renewal, the Fall 2021-Spring 2022 Academic Year will be considered a part of the Faculty Member's initial contract.

Should a probationary Faculty Member be renewed after applying for contract renewal in the 2021-2022 Academic Year, the Faculty Member will subsequently follow an amended probationary time table that parallels Article XII, "Tenure and Service," C.3 and preserves the intervals between contract renewals.

3. ARTICLE XIII, FACULTY APPOINTMENTS NOT ELIGIBLE FOR TENURE, Paragraph C. LIMITED TERM CONTRACTS, shall be amended to read as follows:

LIMITED TERM CONTRACTS

Faculty Members on either full or part-time appointments not eligible for tenure will be offered multi-year contracts under the following conditions:

1. The Faculty Member has been appointed to the same bargaining unit position for five (5) consecutive years; or
2. Where a multi-year Limited Term Contract would serve the mutual needs of the Employer and the Faculty Member.

Limited Term Contracts shall be for three (3) years, with the expiration term of the contract rolling forward one (1) year at the end of each year of the three (3) year term.

MOU - ARTICLE XII, TENURE AND SERVICE AND ARTICLE XIII, FACULTY APPOINTMENTS NOT ELIGIBLE FOR TENURE

A Limited Term Contract may be terminated prior to its expiration, provided that the Faculty Member is given at least four (4) months' notice, and all other temporary contracts of shorter duration in the individual's Program, Division, or Department have been given prior notice of termination.

Limited Term Contracts for a period of one (1) year up to three (3) years shall be offered to Lecturers who have taught for at least eight (8) semesters over a seven (7) year period in the same unit.

Contracts of Faculty Members or Lecturers holding a multi-year Limited Term Contract in Spring 2020 who are up for contract renewal and who are not being paid via extramural funds are hereby extended one (1) additional year. Affected Faculty Member(s) and Lecturer(s) will not be required to submit an application for contract renewal in the 2020-2021 academic year. Any Faculty Member or Lecturer who is up for contract renewal in the 2020-2021 academic year will instead be up for contract renewal in the 2021-2022 academic year. This shall not apply to any Faculty Members or Lecturers holding a Limited Term Contract with a specific termination date or who have already received timely notice that their contract is being terminated.¹

The automatic extension given under this MOU does not affect or count towards either the 5-year period in section 1 above or the period of eight (8) semesters over a seven (7) year period referenced above. In other words, the employer will not be required to offer a Limited Term Contract to Faculty Members who have been appointed to the same bargaining unit position for five (5) consecutive years or Lecturers who have taught for at least eight (8) semesters over a seven (7) year period in the same unit, if the Faculty Members or Lecturers qualify for rolling contracts or Limited Term Contracts as a result of the automatic extension.

4. This Memorandum of Understanding shall be effective on the date entered above and shall continue in full force and effect until June 30, 2021. A copy of this Memorandum of Understanding shall be included in campus or unit guidelines for tenure, promotion or contract renewal for the duration of the contract.

IN WITNESS WHEREOF, the Employer and Union, by their authorized representatives, have executed this Memorandum of Understanding.

¹ In other words, only multi-year contracts that have not yet expired (or were not due to expire this year) will be given an additional year to apply for renewal. For example, one-year contracts that would naturally expire at the end of this academic year are not affected by this extension. Individuals who have already been given their notice for termination of their contract at least 4 months in advance, are not covered by the MOU and the employer does not have to give *another* 4-month notice. Since lecturers are temporary, part-time employees, the University cannot obligate itself to any guarantee of future employment or give any indication that continued employment is implied or intended.

FOR THE EMPLOYER:

STATE OF HAWAII
UNIVERSITY OF HAWAII



Digitally signed by David Lassner
Date: 2020.06.22 20:03:53 -10'00'

Its President

FOR THE UNION:

UNIVERSITY OF HAWAII
PROFESSIONAL ASSEMBLY



Its Executive Director

STATE OF HAWAII
OFFICE OF COLLECTIVE BARGAINING



Its Chief Negotiator

MOU - ARTICLE XII, TENURE AND SERVICE AND ARTICLE XIII, FACULTY
APPOINTMENTS NOT ELIGIBLE FOR TENURE