

Careful consideration is a term that appears in Article 12.7 of the Faculty Collective Bargaining Agreement (also called the Faculty Contract). Although not actually defined in the agreement, the term has derived meaning from numerous arbitration decisions. In fact, “careful consideration” has been the subject of more grievances and more arbitrations than any other aspect of the CBA. Even so, the concept of careful consideration remains ambiguous to many of the individuals responsible for its implementation. The following guidelines are intended to help those individuals.

### Relevant Articles of the Collective Bargaining Agreement

- 11.4 The faculty unit employee shall be notified of the placement of any material in his/her Personnel Action File that the appropriate administrator initially considers to be accurate and relevant, and the faculty unit employee shall be provided with a copy of such material at least five (5) days prior to such placement.
- 12.7 Each department or equivalent unit shall maintain a list of temporary employees who have been evaluated by the department or equivalent unit. If such an employee applies for a position in that department or equivalent unit or applicant pool for that department or equivalent unit, the faculty unit employee’s previous periodic evaluations and his/her application shall receive careful consideration. If a temporary employee applies for a subsequent appointment and does not receive one, his/her right to file a grievance shall be limited to allegations of a failure to give careful consideration. Such a grievance would constitute an allegation of a contractual violation and would not be a “Faculty Status Matter” as defined in Article 10 of this Agreement.
- 15.23 Full-time temporary faculty unit employees appointed for two (2) or more semesters or three (3) or more quarters, regardless of a break in service, must be evaluated in accordance with the periodic evaluation procedure. This evaluation shall include student evaluations of teaching performance for those with teaching duties, peer review by a committee of the department or equivalent unit as defined in provision 15.2, and evaluations by appropriate administrators. Evaluation of full-time temporary Coaching Faculty Unit Employees shall include an opportunity for peer input and evaluation by appropriate administrators.
- 15.24 Part-time temporary faculty unit employees appointed for two (2) or more semesters or three (3) or more quarters, regardless of a break in service, shall be evaluated in accordance with the periodic evaluation procedure. Such evaluations shall include student evaluations of teaching performance of those with teaching duties, evaluations by appropriate administrators and/or department chair, and an opportunity for peer input as defined in provision 15.2 from the department or equivalent unit. Evaluation of part-time temporary Coaching Faculty Unit Employees shall include an opportunity for peer input and evaluation by appropriate administrators.

- 15.25 A temporary faculty unit employee appointed for one (1) semester or two (2) quarters or less shall be evaluated at the discretion of the department chair, the appropriate administrator, or the department or equivalent unit. The employee may request that an evaluation be performed.
- 15.26 Temporary faculty unit employees holding three-year appointments pursuant to Article 12 shall be evaluated at least once during the term of their appointment and may be evaluated more frequently upon the request of either the employee or the President.
- 15.27 A written record of periodic evaluation shall be placed in the temporary faculty unit employee's Personnel Action File. The temporary faculty unit employee shall be provided a copy of the written record of the evaluation.

### **Key Points from the CBA Articles:**

1. The faculty unit employee should be given a copy of all information to be placed in his or her personnel file and an opportunity to respond. Per Article 15.5, the faculty member should receive a copy of recommendations regarding the evaluation to be placed in the PAF and then has ten (10) days to submit a rebuttal or response statement and/or request a meeting to discuss the recommendation.
2. Annual periodic evaluations should be conducted.
3. The department should maintain a list of temporary employees who have been evaluated by the department.
4. There must be careful consideration of the employee when he or she applies for a position in the department or applicant pool.

### **Guidelines Developed Through Relevant Arbitration Awards**

#### General Observations

An arbitrator has ruled that “. . . [T]he term “careful consideration” means more than simply thinking about someone and deciding not to offer that person a position. It must mean the University has to have some kind of a reason for what it did . . .”

Careful consideration must be based on objective, merit-based standards. Article 15 and campus procedures must be followed, all aspects of the applicant's performance must be considered, and decisions about appointment should be based on legitimate academic criteria, such as the professional quality of course material, attainment of the appropriate degree, and student evaluations. Position descriptions tailored to a specific candidate's qualifications are an indication that careful consideration was not given to other candidates.

## Careful Consideration Procedures

The procedures for evaluation and decision-making set forth in Article 15 as well as campus and department policies and procedures must be followed. Department procedures should be in writing and made available to faculty members so they will know the criteria on which they will be evaluated for appointment or reappointment. Per Article 15.3, the evaluation criteria and procedures must be made available to faculty no later than 14 days after the first day of instruction of the academic term.

Performance evaluations must be completed and considered. In arbitration it has been found that evaluations based on peer class visit reports, course materials, student evaluations, and grading practices were evidence of objective performance evaluations. The evaluations should be in writing and placed in the Personnel Action File.

The Personnel Action File should be reviewed by each person involved in making the appointment decision. Each PAF should contain a log-in sheet and evaluators should sign the log-in sheet and review the file prior to making a recommendation or decision.