

1 MICHAEL J. VARTAIN [SBN 92366]
KATHRYN J. BURKE [SBN 70324]
2 **VARTAIN LAW GROUP, P.C.**
601 Montgomery Street, Suite 780
3 San Francisco, CA 94111-2664
Telephone: [415] 391-1155
4 Facsimile: [415] 391-1177

5 Attorneys for Defendant
NOTRE DAME DE NAMUR UNIVERSITY
6

7
8 IN THE UNITED STATES DISTRICT COURT
FOR THE
9 NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO
10

11
12 JOHN S. MOORE, III, and LEE STRAWN,)
individually and on behalf of all others)
13 similarly situated,)

) Case No.:
) State Case No.: 19-CIV-04765
)

14 Plaintiffs,
15 v.

) **NOTICE OF REMOVAL TO FEDERAL**
) **COURT**
)

16 NOTRE DAME DE NAMUR UNIVERSITY,)
a California Non-Profit Public Benefit)
17 Corporation,)

18 Defendant.
19
20
21

1 **TO THE CLERK OF THE UNITED STATES DISTRICT COURT, NORTHERN**
2 **DISTRICT OF CALIFORNIA (SAN FRANCISCO):**

3 PLEASE TAKE NOTICE that Defendant NOTRE DAME DE NAMUR UNIVERSITY
4 (hereinafter, “the University”), pursuant to 28 U.S.C. § 1441, *et seq.*, files this Notice of
5 Removal of Action to Federal Court, in order to remove Case No. 19-CIV-04765 from the
6 California Superior Court in and for the City and County of San Mateo, to the United States
7 District Court, Northern District of California (San Francisco), and states as follows:

8 1. On August 15, 2019, an action was commenced in the Superior Court of the State of
9 California in and for the County of San Mateo, entitled, *John S. Moore, III, individually and on*
10 *behalf of all others similarly situated, Plaintiff, v. Notre Dame de Namur University, a*
11 *California Non-Profit Public Benefit Corporation, Defendant*, as case number 19-CIV-04765
12 (hereinafter, “Complaint”).

13 2. A true and correct copy of the Summons, Class Action Complaint, Civil Cover
14 Sheet, Certificate Re Complex Case Designation, and Notice of Assignment for All Purposes,
15 Designation as Complex Case, Setting of Case Management Conference and Complex Fees
16 Due, is attached hereto as **Exhibit A**.

17 3. On September 4, 2019, Plaintiffs First Amended Class Action Complaint was filed in
18 the Superior Court of the State of California in and for the County of San Mateo, entitled, *John*
19 *S. Moore, III, and Lee Strawn, individually and on behalf of all others similarly situated,*
20 *Plaintiffs, v. Notre Dame de Namur University, a California Non-Profit Public Benefit*
21 *Corporation, Defendant*, as case number 19-CIV-04765 (hereinafter, “FACAC”).

22 4. A true and correct copy of the Amended Case Management Order #1 and FACAC
23 are attached hereto as **Exhibit B**.

24 5. The FACAC alleges the existence of a Collective Bargaining Agreement
25 (hereinafter, “CBA”) between the University and Service Employees International Union, Local
26 1021, from July 1, 2017 to June 30, 2020. A true and correct copy of the CBA is attached
27 hereto as **Exhibit C**.

28 \\\

1 10. **Venue:** Under 28 U.S.C. § 1441(a), venue is proper within the Northern District of
2 California because this action was pending in the California Superior Court in and for the
3 County of San Mateo at the time of its removal. As alleged, the events at issue took place in
4 this district.

5
6 DATED: September 23, 2019

VARTAIN LAW GROUP, P.C.

7
8 BY: /s/Michael J. Vartain, Esq.
9 MICHAEL J. VARTAIN
10 KATHRYN J. BURKE
11 Attorneys for Defendant
12 NOTRE DAME DE NAMUR UNIVERSITY
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Exhibit A

SUM-100

SUMMONS
(CITACION JUDICIAL)

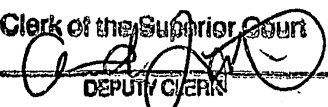
FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

FILED

SAN MATEO COUNTY

AUG 15 2019

Clerk of the Superior Court

By  DEPUTY CLERK

NOTICE TO DEFENDANT:
(AVISO AL DEMANDADO):

NOTRE DAME DE NAMUR UNIVERSITY, a California Non-Profit Public Benefit Corporation

YOU ARE BEING SUED BY PLAINTIFF:
(LO ESTÁ DEMANDANDO EL DEMANDANTE):

JOHN S. MOORE, III, individually and on behalf of all others similarly situated

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. **NOTE:** The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. **¡AVISO!** Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is:
(El nombre y dirección de la corte es): Hall of Justice
400 County Center
Redwood City, CA 94063

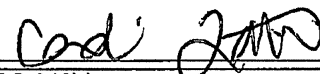
CASE NUMBER
(Número del caso): **19CV04785**

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):
Julian Hammond; 1829 Reisterstown Rd Suite 410 Baltimore MD 21208; 310-601-6766

DATE: August 15 2019
(Fecha)

NEAL TANIGUCHI

Clerk, by
(Secretario)

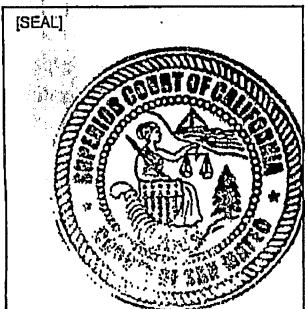


Deputy
(Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)
(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

NOTICE TO THE PERSON SERVED: You are served

- as an individual defendant.
- as the person sued under the fictitious name of (specify):
- on behalf of (specify):
under: CCP 416.10 (corporation) CCP 416.60 (minor)
 CCP 416.20 (defunct corporation) CCP 416.70 (conservatee)
 CCP 416.40 (association or partnership) CCP 416.90 (authorized person)
 other (specify):
- by personal delivery on (date):



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29

JULIAN HAMMOND (SBN 268489)
jhammond@hammondlawpc.com
POLINA BRANDLER (SBN 269086)
pbrandler@hammondlawpc.com
ARI CHERNIAK (SBN 290071)
acherniak@hammondlaw.com
HAMMONDLAW, P.C.
1829 Reisterstown Rd., Suite 410
Baltimore, MD 21208
(310) 601-6766
(310) 295-2385 (Fax)

Attorneys for Plaintiff and the Putative Class

FILED
SAN MATEO COUNTY

AUG 15 2019

Clerk of the Superior Court
By 
DEPUTY CLERK

SUPERIOR COURT FOR THE STATE OF CALIFORNIA
COUNTY OF SAN MATEO

19C1V04765

JOHN S. MOORE, III, individually and on behalf of all others similarly situated,

Plaintiff,

vs.

NOTRE DAME DE NAMUR UNIVERSITY,
a California Non-Profit Public Benefit Corporation,

Defendant.

CASE NO. _____

CLASS ACTION COMPLAINT FOR:

- (1) Failure to Pay Wages for All Hours Worked (Cal. Labor Code §§ 226.2, 1194, 1194.2; IWC Wage Order No. 4-2001, § 4);
- (2) Failure to Authorize and Permit Paid Rest Breaks and Pay Premium Pay (Cal. Labor Code §§ 226.2, 226.7, 1194, 1194.2; IWC Wage Order No. 4-2001, §§ 4, 12);
- (3) Failure to Issue Accurate Itemized Wage Statements (Cal. Labor Code § 226.2(a);
- (4) Failure to Pay Compensation Due Upon Discharge From Employment (Cal. Labor Code §§ 201-203); and
- (5) Unfair, Unlawful, or Fraudulent Business Practices (Cal. Bus. & Prof. Code § 17200 *et seq.*).

DEMAND FOR JURY TRIAL

FILE BY FAX

1 Plaintiff John S. Moore, III ("Plaintiff"), on behalf of himself and all others similarly situated,
2 complains and alleges the following:

3 INTRODUCTION

4 1. This is a class action under California Code of Civil Procedure § 382 seeking damages
5 for unpaid wages, unpaid premium pay, failure to issue accurate itemized wage statements,
6 unreimbursed business expenses, penalties, interest, and other equitable relief, including injunctive
7 relief and restitution, as well as reasonable attorneys' fees and costs under California Labor Code
8 ("Labor Code") §§ 226.2, 226.2(a), 226(a) and (e), 226.7, 1194, 1194.2, 201-203, and IWC Wage Order
9 ("Wage Order") No. 4-2001, §§ 4 and 12, Cal. Civ. Proc. Code § 1021.5, and California's Unfair
10 Competition Law ("UCL"), Business & Professions Code §§ 17200 *et seq.*

11 2. Plaintiff brings this action on behalf of himself and all other similarly situated individuals
12 currently and formerly employed in California by Notre Dame De Namur University ("NDNU" or
13 "Defendant") as adjunct instructors or in a similar capacity ("Class Members") from four years prior to
14 the filing of this Complaint through to the trial date ("Class Period"). Defendant's violations of
15 California's wage and hour laws, as described more fully below, have been ongoing for at least the past
16 four years, and are continuing at present.

17 3. During the Class Period, Plaintiff and Class Members were non-exempt employees and
18 were paid a set amount on a piece-rate basis or "Course Rate" – a fixed amount for each course taught
19 during an academic semester. Additionally, Plaintiff and Class Members did not earn a monthly salary
20 equivalent of two times the state minimum wage for full-time employment. As a result, Class Members
21 do not fall within the professional exemption, or any other exemption, of Industrial Welfare
22 Commission Wage Order No. 4, and are non-exempt employees who are entitled to be paid for all hours
23 worked. However, Defendant failed to pay Class Members at least minimum wage for non-productive
24 work outside the classroom teaching time (also referred to herein as "Non-teaching Time") in violation
25 of Labor Code §§ 226.2, 1194, 1194.2, and Wage Order No. 4-2001, § 4.

26 4. During the Class Period, Defendant, as matter of policy and/or practice, failed to
27 authorize and permit Class Members to take paid off-duty rest breaks, and/or failed to pay Class
28 Members for their rest breaks separately and hourly apart from the Course Rate, and failed to pay
premium pay for missed rest breaks, in violation of Labor Code §§ 226.2, 226.7 and Wage Order No. 4-
2001 § 12.

1 5. During the Class Period, Defendant failed to issue accurate itemized wage statements
2 that included *inter alia*, all hours worked, applicable hourly rates, compensable rest periods, and
3 compensable non-teaching time in violation of Labor Code §§ 226(a), 226.2(a).

4 6. In addition, this action is brought on behalf of a subclass comprised of Plaintiff and Class
5 Members formerly employed by Defendant (“Waiting Time Penalty Subclass Members”). During the
6 “Waiting Time Penalty Subclass Period” – designated as three years prior to the filing of the Complaint
7 through to the trial date – Defendant failed to pay all compensation due and owing to Waiting Time
8 Penalty Subclass Members for their non-productive work and rest break premium pay upon discharge
9 from employment, which terminated upon the end of their courses taught, in violation of Labor Code
§§ 201-203.

10 7. As a result of the above Labor Code violations, Defendant committed unfair, unlawful,
11 and fraudulent business practices, in violation of the UCL.

12 **PARTIES**

13 8. Plaintiff is a resident of San Leandro, California who was employed by NDNU as an
14 adjunct instructor from approximately January 8, 2018 until May 11, 2018. Plaintiff taught graduate
15 courses offered at NDNU. During his employment, Plaintiff was subject to Defendant’s unlawful
16 conduct described herein.

17 9. Defendant is a California non-profit public benefit corporation, with its main campus
located in Belmont, California and a satellite campus in Tracy, California

18 **JURISDICTION**

19 10. This Court has jurisdiction over Plaintiff’s and Class Members’ claims for failure to pay
20 wages for all hours worked outside of classroom teaching time under Labor Code §§ 226.2, 1194,
1194.2 and Wage Order No. 4-2001 § 4.

21 11. This Court has jurisdiction over Plaintiff and Class Members’ claims for failure to
22 authorize and permit Class Members to take off-duty rest breaks and/or failure to pay Class Members
23 for their rest breaks separately and hourly apart from the piece, and for failure to pay premium pay for
24 missed rest breaks, under Labor Code §§ 226.2, 226.7, 1194, 1194.2 and Wage Order No. 4-2001 §§ 4,
12.

25 12. This Court has jurisdiction over Plaintiff’s and Class Members’ claims for failure to issue
26 accurate itemized wage statements under Labor Code §§ 226.2(a), 226(a).

27 13. This Court has jurisdiction over Plaintiff’s and Waiting Time Penalty Subclass Members’
28 claims for compensation due upon discharge from employment under Labor Code §§ 201-203.

1 14. This Court has jurisdiction over the claims for restitution arising from Defendant's
2 violations of Labor Code §§ 226.2, 226.7, 1194, 1194.2, and Wage Order No. 4-2001 § 4 and 12, under
3 the UCL, Bus. & Prof. Code §§ 17203 and 17204.

4 15. This Court has jurisdiction over claims for attorney's fees and costs pursuant to Labor
5 Code § 1194 and Cal. Civ. Proc. Code § 1021.5.

6 16. This Court has jurisdiction over the claims for declaratory and injunctive relief under the
7 UCL, Bus. & Prof. Code §§ 17200 *et seq.*

8 17. The amount in controversy for Plaintiff, including claims for civil penalties and pro rata
9 share of attorney's fees, is less than seventy-five thousand dollars (\$75,000).

10 **VENUE**

11 18. Venue is proper in the County of San Mateo pursuant to Cal. Civ. Proc. Code §§ 395(a)
12 and 395.5. Defendant is headquartered in Belmont, California which is within the San Mateo County.
13 Plaintiff was employed at Defendant's Belmont campus.

14 **FACTUAL ALLEGATIONS COMMON TO ALL CLAIMS**

15 ***A. Defendant's Business and Class Members' Role in Business Operations***

16 19. Defendant is a private, non-profit secondary education provider that offers both
17 undergraduate and graduate programs, online and on campus. The university is organized into three
18 schools: College of Arts and Sciences, the School of Business and Management, and the School of
19 Education and Leadership. Defendant offers 15 undergraduate degrees, 10 graduate degrees, and four
20 credentials.

21 20. Courses are available in the Fall, Spring, and Summer semesters. Courses typically meet
22 once per week in 3 or 4-hour class sessions. In addition to the scheduled class time, Defendant
23 maintained a policy and/or practice requiring Class Members to arrive early to prepare for class and
24 begin class on time, and to be available to students before class, during class (including during class
25 breaks), and after class ended. As a result of Defendant's job duties and requirements including the
26 requirement that Class Members arrive early and stay late after class, a scheduled 3-hour class required
27 Class Members to work for at least 3.5 consecutive hours.

28 21. Defendant employs Class Members as adjunct instructors to teach the courses offered at
each campus. During the Class Period, Class Members were employed on a per-course basis to teach a
specific course. Class Members taught the Courses to students using materials from approved
curriculum and in accordance with an assigned schedule.

1 22. During the Class Period, in addition to teaching the Courses, Defendant required and
2 expected Class Members to perform numerous non-productive tasks that must necessarily be done
3 outside of class time. These tasks include, but are not limited to: (1) arriving on campus prior to the start
4 of class to prepare the classroom and to be available to meet with students prior to start of class; (2)
5 being available to students to meet for office hours after class; (3) being available to students during the
6 week, including by phone and email; (4) creating course materials, such as syllabi, tests and quizzes; (5)
7 building daily lesson plans and lectures; (6) grading assignments, tests and quizzes and submitting
8 grades and progress reports; (7) completing end-of-term checklists with student grades; (8) attending
9 faculty orientations, meetings and workshops; (9) attending graduations; (10) taking attendance daily
and entering attendance online ("Non-Teaching Tasks").

10 ***B. Defendant Compensated Class Members Based on the Number of Courses Taught***

11 23. During the Class Period, Defendant paid Class Members a flat piece rate per unit taught
12 for each course in a given semester. In any given academic semester, Defendant scheduled Class
13 Members to teach a different number of Courses, sometimes teaching one, two, or no Courses.

14 ***C. Class Members Are Non-Exempt Employees under Wage Order No. 4-2001***

15 24. During the Class Period, Class Members did not qualify as exempt under any exemptions
16 set forth in Wage Order No. 4-2001, § 1(A) as they were not paid a salary, but rather by the piece (i.e.,
17 by the Course), and, in any event, Class Members were paid less than the monthly salary equivalent of
18 two times the California minimum wage for full-time employment. For example, during his
19 employment as an adjunct instructor from January 2018 to May 2018, Plaintiff earned approximately
20 \$300 to \$400 per month, which is substantially less than the applicable monthly salary equivalent of two
21 times the California minimum wage for full-time employment.

22 25. As a result, during the Class Period, Defendant was required to comply with the
23 obligation to pay Class Members for all hours worked, to pay for non-productive time separate and apart
24 from the piece, to authorize and permit paid rest periods, and to pay for time spent on rest periods
25 separate and apart from the piece, pursuant to Labor Code §§ 1194, 226.2, 226.7 and Wage Order No. 4-
26 2001, §§ 4 and 12.

27 ***D. Defendant's Compensation Practices for Class Members Violated California's Minimum
28 Wage and Rest Period Laws***

29 26. Because Class Members are non-exempt employees who are paid by the piece,
30 Defendant is required under Labor Code §§ 226.2, 1194, and 1194.2 to pay them at least minimum
31 wage for all hours spent performing Non-Teaching Tasks. However, throughout the Class Period,

1 Defendant failed to pay any wages to Plaintiff and Class Members for the time spent on Non-Teaching
2 Tasks. Nor did Defendant provide any means or mechanism for Plaintiff and Class Members to record
3 their time spent performing Non-Teaching Tasks, and had no practice and/or policy in place to
4 compensate Class Members for any work performed outside of class time.

5 27. Defendant is also required under Labor Code § 226.2 to pay Class Members at their
6 average hourly rate for their time spent on rest breaks separately and apart from the Course Rate, but
7 does not do so. As a result, Defendant authorized, at most, only unpaid rest breaks. Because any rest
8 breaks that Class Members took were unpaid, Defendant failed to authorize and permit rest breaks in
9 accordance with § 12 of the Wage Order No. 4 and applicable law, thereby triggering an obligation to
10 make premium payments to Class Members under Labor Code § 226.7 and Wage Order No. 4-2001, §
11 12(B).

12 28. During the Class Period, Defendant's policies and/or practices also did not authorize and
13 permit Class Members to take paid off-duty rest periods. At a minimum, Plaintiff and Class Members
14 should have been provided a paid 10-minute rest break during their class sessions that were scheduled
15 for at least 3 hours and that were in fact 3.5 hours long including the required pre-class preparation time
16 and the time spent responding to students' questions before and after class. Defendant, however
17 maintained policies and practices that required and/or expected Class Members to devote the entire
18 scheduled class time to teaching students and answering students' questions including during classroom
19 breaks. Thus, Defendant failed to authorize and permit compliant rest breaks in accordance with Wage
20 Order No. 4-2001, § 12(A) thereby triggering an obligation to make premium payments to Plaintiff and
21 Class Members under Labor Code § 226.7 and Wage Order No. 4-2001, § 12(B).

22 29. As an additional consequence of Defendant's failure to pay wages owed for Non-
23 Teaching Tasks and premium pay for missed rest breaks, Defendant failed to issue accurate wage
24 statements to Class Members which included (1) gross wages earned, (2) total hours worked, (3) the
25 number of piece-rate units earned and any applicable piece rate, (4) net wages earned (5) total hours of
26 compensable rest and recovery periods; (6) rate of compensation for rest and recovery periods; (7) gross
27 wages paid for compensable rest and recovery periods; (8) total hours of nonproductive time; (9) rate of
28 compensation for nonproductive time; and (10) gross wages paid for nonproductive time, as required
under Labor Code §§ 226(a) and 226.2(a).

30. Additionally, Defendant was required to furnish non-exempt Class Members with wage
statements that contained entries for total hours worked and applicable hourly rates earned during the
pay period pursuant to Labor Code § 226(a)(2) and (a)(9). However, Defendant failed to do so and

1 instead issued wage statements that included lump sums earned during a particular period, with no
2 entries for hours worked and hourly rates earned.

3 31. As a result, Class Members could not readily ascertain their regular hourly rate, the total
4 hours worked at that rate, the total hours worked during a pay period, and the gross and net wages
5 earned from the wage statements alone, without reference to other document or information, including
6 wage statements from previous pay periods. Class Members have therefore suffered injury for the
7 purposes of Labor Code § 226(e).

8 32. As a further consequence of Defendant's failure to pay wages owed for Non-Teaching
9 Tasks and premium pay rest breaks, Plaintiff and Waiting Time Penalty Subclass Members did not
10 receive all compensation due to them in their final paychecks. As a result, Plaintiff and the other
11 Waiting Time Penalty Subclass Members did not receive all wages due upon termination; nor did they
12 receive these wages due within 30 days of the separation of their employment from Defendant.

13 ***E. Defendant's Labor Code Violations Were Unfair Business Practices***

14 33. From at least four years prior to filing this complaint, through the present, Defendant has
15 adopted and used unfair business practices to reduce Class Members' compensation and increase profits.
16 These unfair business practices include failing to pay Class Members for their time spent on rest periods
17 separate and apart from the Course Rate; failing to authorize and permit timely off-duty rest periods;
18 failing to pay premium pay for missed rest breaks; and failing to pay Class Members for their time spent
19 Non-Teaching Tasks separately and apart from their Course Rate or at all.

20 **CLASS ACTION ALLEGATIONS**

21 34. Plaintiff brings this class action pursuant to Cal. Civ. Pro. Code. § 382 on behalf of the
22 Class and Waiting Time Penalty Subclass. Upon information and belief, there are more than 100 Class
23 Members, and more than 100 Waiting Time Penalty Subclass Members. The members of the Class and
24 Waiting Time Penalty Subclass are so numerous that joinder of all members is impractical.

25 35. Plaintiff's claims are typical of the claims of the members of the Class and Waiting
26 Time Penalty Subclass because he was an adjunct instructor who was (a) paid a Course Rate, (b) not
27 paid for rest break time and Non-Teaching Task time separately and apart from the Course Rate, (b)
28 subject to Defendant's policies and practices that prevented and/or impeded his ability to take
authorized and permitted to take paid off-duty rest periods, (c) not paid break premium pay; (d) not paid
all wages due at termination; and (f) not provided an accurate and itemized wage statement each pay
period.

1 36. Plaintiff will fairly and adequately represent the interests of the Class and Waiting Time
2 Penalty Subclass. Plaintiff has no conflict of interest with any member of the Class or Subclass.
3 Plaintiff has retained competent and experienced counsel in complex class action litigation. Plaintiff's
4 counsel has the expertise and financial resources to adequately represent the interests of the Class and
5 Subclass.

6 37. Common questions of law and fact exist as to all members of the Class and the Waiting
7 Time Penalty Subclass and predominate over any questions solely affecting individual members of the
8 Class and Subclass. Among the questions of law and fact common to the Plaintiff and the Class and
9 Subclass are the following:

- 10 a. Whether a Course rate is a piece rate;
- 11 b. Whether Class Members are non-exempt employees;
- 12 c. Whether Class Members are entitled to at least minimum wage for all hours worked
13 including time spent working outside of teaching the classroom;
- 14 d. Whether Class Members were entitled to separate and hourly pay for rest breaks, and/ or
15 entitled to separate and hourly pay for their time spent on Non-Teaching tasks;
- 16 e. Whether Defendant violated Labor Code §§ 226.2, 1194, 1194.2 and Wage Order No. 4
17 2001, § 4 by failing to pay Plaintiff and the Class at least minimum wage for their time
18 spent on Non-Teaching Tasks during the Class Period;
- 19 f. Whether Defendant is liable for liquidated damages to Plaintiff and the Class under
20 Labor Code §§ 1194 and 1194.2 for its failure to pay for their time spent on Non-
21 Teaching Tasks during the Class Period;
- 22 g. Whether Defendant violated Labor Code § 226.2 and Wage Order No. 4-2001, § 4 by
23 failing to pay Plaintiff and the Class separately and apart from the Course Rate for their
24 rest breaks during the Class Period;
- 25 h. Whether Defendant violated Wage Order No. 4-2001 § 12 by maintaining policies and/or
26 practices that prevented or impeded Class Members from taking paid rest periods during
27 the Class Period;
- 28 i. Whether Defendant violated Labor Code § 226.7 and Wage Order No. 4-2001 § 12 by
failing to pay premium pay to the Class for each day that a paid rest period was not provided
during the Class Period;

- 1 j. Whether Defendant was required to furnish all Class Members with wage statements that
- 2 included total hours worked and applicable hourly rates by virtue of their status as non-
- 3 exempt employees, pursuant to Labor Code § 226(a)(2) and (a)(9);
- 4 k. Whether Defendant violated Labor Code § 226.2(a) and/or Labor Code § 226(a) by
- 5 failing to issue accurate itemized wage statements;
- 6 l. Whether Defendant's violation of Labor Code § 226(a) was knowing and intentional;
- 7 m. Whether Class Members suffered injury for the purposes of Labor Code § 226(e);
- 8 n. Whether Defendant violated Labor Code §§ 201-203 by failing to pay Waiting Time
- 9 Penalty Subclass for all of their wages due to them upon separation of their employment,
- 10 including the wages owed to them for their time spent on rest periods and Non-Teaching
- 11 Tasks;
- 12 o. Whether these violations constitute unfair, unlawful, and fraudulent business practices, in
- 13 violation of UCL;
- 14 p. Whether Plaintiff and Class Members are entitled to restitution under Bus. & Prof. Code
- 15 § 17200 *et seq.* for uncompensated wages, and unpaid premium pay;
- 16 q. The proper formula(s) for calculating damages, interest, and restitution owed to Plaintiff
- 17 and the Class and Subclass Members;
- 18 r. Whether the Class is entitled to declaratory relief;
- 19 s. Whether the Class is entitled to injunctive relief.

20 38. Class action treatment is superior to any alternative method to ensure the fair and
21 efficient adjudication of the controversy alleged herein. Such treatment will permit a large number of
22 similarly situated persons to prosecute their common claims in a single forum simultaneously,
23 efficiently, and without duplication of effort and expense that numerous individual actions would entail.
24 No difficulties are likely to be encountered in the management of this class action that would preclude
25 its maintenance as a class action, and no superior method exists for the fair and efficient adjudication of
26 this controversy. Class Members are readily identifiable from Defendant's employee rosters and/or
27 payroll records.

28 39. Defendant's actions are generally applicable to the entire Class. Prosecution of separate
actions by individual members of each Class creates the risk of inconsistent or varying adjudications of
the issues presented herein, which, in turn, would establish incompatible standards of conduct for
Defendant.

1 40. Because joinder of all members is impractical, a class action is superior to other available
2 methods for the fair and efficient adjudication of this controversy. Furthermore, the amounts at stake
3 for many members of each Class, while substantial, may not be sufficient to enable them to maintain
4 separate suits against Defendant.

5 **FIRST CAUSE OF ACTION**
6 **Failure to Pay for All Hours Worked**
7 **[Cal. Labor Code §§ 226.2, 1194, 1194.2; Wage Order No. 4-2001, § 4]**

8 41. Plaintiff re-alleges and incorporates by reference each and every allegation set forth in
9 the preceding paragraphs.

10 42. Labor Code § 1194 provides, in relevant part:

11 “Notwithstanding any agreement to work for a lesser wage, any employee receiving less
12 than the legal minimum wage ... applicable to the employee is entitled to recover in a
13 civil action the unpaid balance of the full amount of this minimum wage [...], including
14 interest thereon, reasonable attorney’s fees, and costs of suit.”

15 43. Labor Code § 1194.2 provides, in relevant part:

16 “In any action under ... Section 1194 to recover wages because of the payment of a wage
17 less than the minimum wage fixed by an order of the commission, an employee shall be
18 entitled to recover liquidated damages in an amount equal to the wages unlawfully unpaid
19 and interest thereon. ...”

20 44. Labor Code § 226.2(a)(1) states that “employees shall be compensated
21 for...nonproductive time separate from any piece-rate compensation.”

22 45. As set forth above, during the Class Period, Plaintiff and Class Members were paid a
23 fixed monthly Course Rate which compensated them for the time spent teaching courses, but
24 Defendant did not compensate them for their time spent on Non-Teaching Tasks, separately from the
25 Course Rate, or at all.

26 46. Accordingly, pursuant to § 4 of Wage Order 4 and Labor Code §§ 226.2, 1194, and
27 1194.2, Plaintiff and the Class are entitled to recover, at a minimum, their unpaid hourly wages, plus
28 liquidated damages in an additional amount equal to the wages unlawfully withheld during the Class
Period for Class Members’ time spent on Non-Teaching Tasks.

47. Plaintiff, on behalf of himself and all other Class Members, requests relief as described
below.

SECOND CAUSE OF ACTION

**Failure to Authorize and Permit Paid Rest Periods or Pay Missed Rest Period Premiums
[Cal. Labor Code §§ 226.2 and 226.7; IWC Wage Order No. 4-2001 § 12]**

1
2
3 48. Plaintiff re-alleges and incorporates by reference each and every allegation set forth in
4 the preceding paragraphs.

5 49. Labor Code § 226.2(a)(1) states that “employees shall be compensated for rest and
6 recovery periods.... separate from any piece-rate compensation.”

7 50. Wage Order No. 4-2001 § 12(A) provides:

8 “(A) Every employer shall authorize and permit all employees to take rest periods, which
9 insofar as practicable shall be in the middle of each work period. The authorized rest
10 period time shall be based on the total hours worked daily at the rate of ten minutes net
11 rest time per four hours or major fraction thereof. However, a rest period need not be
12 authorized for employees whose total daily work time is less than three and one-half (3
13 1/2) hours. Authorized rest period time shall be counted as hours worked for which there
14 shall be no deduction from wages.”

15 51. California Labor Code § 226.7(a) provides, “No employer shall require any employee to
16 work during any meal or rest period mandated by an applicable order of the Industrial Welfare
17 Commission.”

18 52. As set forth above, during the Class Period, Plaintiff and Class Members regularly
19 worked more than 3.5 consecutive hours in a workday. However, Defendant did not compensate them
20 for their time spent on rest breaks separately and apart from the Course Rate, as required under Labor
21 Code § 226.2.

22 53. Defendant also engaged in a policy and/or practice which failed to authorize and permit
23 Plaintiff and Class Members to take paid off-duty rest breaks by requiring them to remain available to
24 students for office hours before, during and after class, in violation of Wage Order No. 4-2001, § 12.

25 54. As a result of Defendant’s policies and practices, Plaintiff and the Class were not
26 authorized and permitted to take compliant rest breaks, and are entitled to recover one additional hour of
27 pay at the employee’s regular rate of compensation for each day in which Defendant failed to authorize
28 and permit Class Members to take paid rest periods as required under Labor Code § 226.7 and Wage
Order No. 4-2001 § 12.

55. Plaintiff, on behalf of himself and all other Class Members, requests relief as described
below.

THIRD CAUSE OF ACTION
Failure to Issue Accurate Itemized Wage Statements
[Cal. Labor Code §§ 226(a), (e); 226.2(a)]

1
2
3 56. Plaintiff re-alleges and incorporates by reference each and every allegation set forth in
4 the preceding paragraphs.

5 57. Labor Code § 226(a) requires an employer to furnish employees who are non-exempt
6 with wage statements that contain total hours worked (subd. (a)(2)), all applicable hourly rates earned
7 (subd. (a)(9)), and gross wages accurate net (subd. (a)(1)), and net wages earned (subd. (a)(5)).

8 58. In addition to the items an employer is required to list on employees' wage statements
9 pursuant to Labor Code § 226(a), Labor Code § 226.2(a) requires employers to list on employees' wage
10 statements, among other information, "total hour of compensable rest and recovery periods, the rate of
11 compensation, and the gross wages paid for those periods during the pay period."

12 59. Defendant, however, furnished Class Members with wage statements that did not include
13 entries for hours worked and hourly rates earned. Rather the wage statements included a lump sum
14 earned during each pay period and no hours or hourly rates.

15 60. Additionally, as a consequence of Defendant's failure to pay separately and hourly for
16 rest periods and Non-Teaching Tasks and/or Defendant's failure to pay for Non-Teaching tasks at least
17 at the minimum wage and failure to pay premium pay for missed rest breaks, Defendant failed to issue
18 accurate wage statements which accounted for (1) gross wages earned, (2) total hours worked, (3) the
19 number of piece-rate units earned and any applicable piece rate, (4) net wages earned (5) total hours of
20 compensable rest and recovery periods; (6) rate of compensation for rest and recovery periods; (7) gross
21 wages paid for compensable rest and recovery periods; (8) total hours of nonproductive time; (9) rate of
22 compensation for nonproductive time; and (10) gross wages paid for nonproductive time in violation of
23 Labor Code § 226.2(a) and/or 226(a)(1), (a)(2), (a)(5), and (a)(9).

24 61. Plaintiff and the Class suffered damages and were injured as a result of Defendant's
25 knowing and willful violation of Labor Code §§ 226(a), and/or 226.2.

26 62. As a result of Defendant's knowing and intentional violations of Labor Code § 226(a)
27 described above, Class Members are entitled to recover an initial penalty of \$50, and subsequent
28 penalties of \$100, for each incomplete and/or inaccurate wage statement issued to them, up to an amount
not exceeding an aggregate penalty of \$4,000 for each Wage Statement Subclass Member, pursuant to
Labor Code § 226(e).

 63. Plaintiff, on behalf of himself and all other Class Members, requests relief as described

1 below.

2 **FOURTH CAUSE OF ACTION**

3 **Failure to Pay Compensation Due Upon Termination**

4 **[Cal. Labor Code §§ 201-203]**

5 **As to Plaintiff and the Waiting Time Penalty Subclass**

6 64. Plaintiff re-alleges and incorporates by reference each and every allegation set forth in the preceding paragraphs.

7 65. Labor Code §§ 201 and 202 require Defendant to pay all compensation due and owing to Class Members promptly after their employment was terminated. Labor Code § 203 provides that if an employer willfully fails to pay compensation promptly upon discharge or resignation, as required by § 201 and 202, then the employer is liable for penalties in the form of continued compensation up to 30 work days.

8 66. As alleged herein, Defendant willfully failed to pay Plaintiff and the Waiting Time Penalty Subclass for their time spent performing Non-Teaching Tasks, failed to pay for rest breaks separately and apart from the piece, and failed to pay rest break premium pay during their employment, or upon their termination or separation from employment with Defendant, as required by Labor Code §§ 201 and 202.

9 67. In light of the clear law requiring that Defendant pay for time spent on Non-Teaching Tasks and rest breaks hourly and separately from the Course Rate, and the clear law requiring Defendant to authorize and permit Class Members to take off-duty rest breaks and pay premium pay for missed rest breaks, Defendant's failure to pay wages for such time was willful.

10 68. As a result, Defendant is liable to Plaintiff and other members of the Waiting Time Penalty Subclass for waiting time penalties amounting to thirty (30) days wages for each formerly employed Class Member pursuant to Labor Code § 203.

11 69. Plaintiff, on behalf of himself and all other Class Members, requests relief as described below.

12 **FIFTH CAUSE OF ACTION**

13 **Violation of Unfair Competition Laws**

14 **[Cal. Bus. & Prof. Code § 17200 *et seq.*]**

15 **As to Plaintiff and the Class**

16 70. Plaintiff re-alleges and incorporates by reference each and every allegation set forth in the preceding paragraphs.

1 71. The UCL prohibits any unlawful, unfair, or fraudulent business practices. Labor Code
2 § 90.5(a) states that it is the public policy of California to vigorously enforce minimum labor standards
3 in order to ensure employees are not required to work under substandard and unlawful conditions, and
4 to protect employers who comply with the law from those who attempt to gain competitive advantage at
5 the expense of their workers by failing to comply with minimum labor standards. Through its actions
6 alleged herein, Defendant has engaged in unfair competition within the meaning of the UCL, because
7 Defendant's conduct has violated state wage and hour laws as herein described.

8 72. Beginning at least four years prior to the filing of this Complaint, Defendant committed,
9 and continues to commit, acts of unfair competition, as defined in the UCL by wrongfully denying Class
10 Members payment in the amount of at least minimum wages for all their hours worked in violation of
11 Labor Code §§ 226.2 and 1194 and Wage Order No. 4-2001 § 4; by failing to pay Class Members for
12 their rest breaks separately and apart from the Course Rate in violation of Labor Code § 226.2; and by
13 failing to authorize and permit paid rest breaks and pay premium pay for missed rest breaks in violation
14 of Labor Code § 226.7 and Wage Order No. 4-2001 § 12.

15 73. By its actions and omissions, Defendant has substantially injured Plaintiff and the Class
16 Members. Defendant's conduct as herein alleged has damaged Plaintiff and the Class and was
17 substantially injurious to them.

18 74. The harm to Plaintiff and the Class resulting from Defendant's labor code violations
19 outweighs the utility, if any, of Defendant's policies and practices. Therefore, Defendant's actions
20 described herein constitute an unfair business practice or act within the meaning of the UCL.

21 75. Plaintiff, on behalf of himself and all other Class Members, requests relief as described
22 below.

PRAYER FOR RELIEF

23 **WHEREFORE**, Plaintiff, on behalf of himself and the Class, prays for the following relief:

24 A. An Order that this action may proceed and be maintained as a class action, with the Class
25 and Subclass as designated and defined in this Complaint, and that the Plaintiff and his counsel be
26 certified as representatives and Counsel for the Class and Subclass, respectively.

27 B. On the First Cause of Action: That the Court find and declare that Defendant violated
28 Labor Code §§ 226.2, 1194, and 1194.2 and/or Wage Order No. 4-2001, § 4 by failing to pay Plaintiff
and Class Members for their time spent on Non-Teaching Tasks separately and apart from the Course
Rate, or at all, and award Plaintiff and the Class the amount of their unpaid minimum wages owed to

1 them for Non-Teaching Tasks, plus liquidated damages in an amount equal to the wages unlawfully
2 withheld during the Class Period.

3 C. On the Second Cause of Action: That the Court find and declare that Defendant violated
4 Labor Code §§ 226.2, and/or 226.7, and Wage Order No. 4-2001, § 12 by failing to pay Plaintiff and
5 Class Members for their time spent on rest breaks separately and apart from the Course Rate, failing to
6 authorize and permit timely off-duty rest breaks, and failing to pay premium pay for rest breaks; and
award Plaintiff and the Class unpaid premium pay for missed rest breaks.

7 D. On the Third Cause of Action: That the Court find and declare that Defendant has
8 violated §§ 226(a) and 226.2(a) of the California Labor Code, and award Plaintiff and Class Members
9 damages and statutory penalties as specified in Labor Code § 226(e).

10 E. On the Fourth Cause of Action: That the Court find and declare that Defendant has
11 violated §§ 201–203 of the California Labor Code, and award Plaintiff and the Waiting Time Penalty
12 Subclass penalties in the amount of 30 days’ wages per Waiting Time Penalty Subclass member.

13 F. On the Fifth Cause of Action: That the Court find and declare Defendant has violated the
14 UCL failing to authorize and permit paid rest breaks for members of the Class and failing to pay Class
15 Members for their rest break separately and apart from the Course Rate, in violation of Labor Code §§
16 226.2, 226.7, and Wage Order No. 4-2001, § 12; by failing to pay Class Members for their Non-
17 Teaching Tasks; and award restitution to the Class, including, but not limited to, an additional hour of
18 pay at the employee’s regular rate of compensation for each day that a paid rest break was not provided
during the Class Period; and that the Court enjoin Defendant from continuing to enforce policies and
practices that violate Labor Code § 1194.

19 G. That the Court award attorneys’ fees and costs of suit to the extent permitted by law,
20 including, but not limited to, Labor Code §§ 1194, 2802(c) and Cal. Civ. Pro. Code § 1021.5.

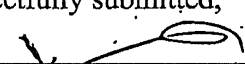
21 H. All other relief as this Court deems proper.

22 **JURY DEMAND**


23 Plaintiff hereby demands trial by jury of all claims against Defendant alleged herein.

24 Dated: August 15, 2019

Respectfully submitted,

25
26 
27 Julian Hammond
HAMMONDLAW, P.C.
Attorneys for Plaintiff

CM-010

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, telephone number, and address): Hammond Law PC; Julian Hammond (N 268489) 1829 Reisterstown Rd Suite 410 Baltimore MD 21208		FOR COURT USE ONLY FILED SAN MATEO COUNTY AUG 15 2019 Clerk of the Superior Court By  DEPUTY CLERK
TELEPHONE NO.: 310-601-6766 ATTORNEY FOR (Name): John S. Moore III	FAX NO.: 310-295-2385	
SUPERIOR COURT OF CALIFORNIA, COUNTY OF San Mateo STREET ADDRESS: 400 COUNTY CENTER MAILING ADDRESS: CITY AND ZIP CODE: REDWOOD CITY 94063 BRANCH NAME: Hall of Justice		
CASE NAME: Moore v. Notre Dame De Namur		
CIVIL CASE COVER SHEET <input checked="" type="checkbox"/> Unlimited (Amount demanded exceeds \$25,000)	<input type="checkbox"/> Limited (Amount demanded is \$25,000 or less)	Complex Case Designation <input type="checkbox"/> Counter <input type="checkbox"/> Joinder Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)
		CASE NUMBER: 19CV04765
		JUDGE: DEPT:

Items 1-6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:

Auto Tort <input type="checkbox"/> Auto (22) <input type="checkbox"/> Uninsured motorist (46)	Contract <input type="checkbox"/> Breach of contract/warranty (06) <input type="checkbox"/> Rule 3.740 collections (09) <input type="checkbox"/> Other collections (09) <input type="checkbox"/> Insurance coverage (18) <input type="checkbox"/> Other contract (37)	Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403) <input type="checkbox"/> Antitrust/Trade regulation (03) <input type="checkbox"/> Construction defect (10) <input type="checkbox"/> Mass tort (40) <input type="checkbox"/> Securities litigation (28) <input type="checkbox"/> Environmental/Toxic tort (30) <input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41)
Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort <input type="checkbox"/> Asbestos (04) <input type="checkbox"/> Product liability (24) <input type="checkbox"/> Medical malpractice (45) <input type="checkbox"/> Other PI/PD/WD (23)	Real Property <input type="checkbox"/> Eminent domain/Inverse condemnation (14) <input type="checkbox"/> Wrongful eviction (33) <input type="checkbox"/> Other real property (26)	Enforcement of Judgment <input type="checkbox"/> Enforcement of judgment (20)
Non-PI/PD/WD (Other) Tort <input type="checkbox"/> Business tort/unfair business practice (07) <input type="checkbox"/> Civil rights (08) <input type="checkbox"/> Defamation (13) <input type="checkbox"/> Fraud (16) <input type="checkbox"/> Intellectual property (19) <input type="checkbox"/> Professional negligence (25) <input type="checkbox"/> Other non-PI/PD/WD tort (35)	Unlawful Detainer <input type="checkbox"/> Commercial (31) <input type="checkbox"/> Residential (32) <input type="checkbox"/> Drugs (38)	Miscellaneous Civil Complaint <input type="checkbox"/> RICO (27) <input type="checkbox"/> Other complaint (not specified above) (42)
Employment <input type="checkbox"/> Wrongful termination (36) <input checked="" type="checkbox"/> Other employment (15)	Judicial Review <input type="checkbox"/> Asset forfeiture (05) <input type="checkbox"/> Petition re: arbitration award (11) <input type="checkbox"/> Writ of mandate (02) <input type="checkbox"/> Other judicial review (39)	Miscellaneous Civil Petition <input type="checkbox"/> Partnership and corporate governance (21) <input type="checkbox"/> Other petition (not specified above) (43)

FILE BY FAX

2. This case is is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
- | | |
|---|--|
| a. <input type="checkbox"/> Large number of separately represented parties | d. <input checked="" type="checkbox"/> Large number of witnesses |
| b. <input checked="" type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve | e. <input type="checkbox"/> Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court |
| c. <input checked="" type="checkbox"/> Substantial amount of documentary evidence | f. <input checked="" type="checkbox"/> Substantial postjudgment judicial supervision |
3. Remedies sought (check all that apply): a. monetary b. nonmonetary; declaratory or injunctive relief c. punitive
4. Number of causes of action (specify): Labor Code Sec. 226.2, 226.7, 1194, 226(a) and (e), 201-203; UCL violation
5. This case is is not a class action suit.
6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: August 15, 2019
 Julian Hammond
 (TYPE OR PRINT NAME)


 (SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

CM-010

INSTRUCTIONS ON HOW TO COMPLETE THE COVER SHEET

To Plaintiffs and Others Filing First Papers. If you are filing a first paper (for example, a complaint) in a civil case, you **must** complete and file, along with your first paper, the *Civil Case Cover Sheet* contained on page 1. This information will be used to compile statistics about the types and numbers of cases filed. You must complete items 1 through 6 on the sheet. In item 1, you must check **one** box for the case type that best describes the case. If the case fits both a general and a more specific type of case listed in item 1, check the more specific one. If the case has multiple causes of action, check the box that best indicates the **primary** cause of action. To assist you in completing the sheet, examples of the cases that belong under each case type in item 1 are provided below. A cover sheet must be filed only with your initial paper. Failure to file a cover sheet with the first paper filed in a civil case may subject a party, its counsel, or both to sanctions under rules 2.30 and 3.220 of the California Rules of Court.

To Parties in Rule 3.740 Collections Cases. A "collections case" under rule 3.740 is defined as an action for recovery of money owed in a sum stated to be certain that is not more than \$25,000, exclusive of interest and attorney's fees, arising from a transaction in which property, services, or money was acquired on credit. A collections case does not include an action seeking the following: (1) tort damages, (2) punitive damages, (3) recovery of real property, (4) recovery of personal property, or (5) a prejudgment writ of attachment. The identification of a case as a rule 3.740 collections case on this form means that it will be exempt from the general time-for-service requirements and case management rules, unless a defendant files a responsive pleading. A rule 3.740 collections case will be subject to the requirements for service and obtaining a judgment in rule 3.740.

To Parties in Complex Cases. In complex cases only, parties must also use the *Civil Case Cover Sheet* to designate whether the case is complex. If a plaintiff believes the case is complex under rule 3.400 of the California Rules of Court, this must be indicated by completing the appropriate boxes in items 1 and 2. If a plaintiff designates a case as complex, the cover sheet must be served with the complaint on all parties to the action. A defendant may file and serve no later than the time of its first appearance a joinder in the plaintiff's designation, a counter-designation that the case is not complex, or, if the plaintiff has made no designation, a designation that the case is complex.

CASE TYPES AND EXAMPLES

Auto Tort

Auto (22)-Personal Injury/Property Damage/Wrongful Death
Uninsured Motorist (46) *(if the case involves an uninsured motorist claim subject to arbitration, check this item instead of Auto)*

Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort

Asbestos (04)
Asbestos Property Damage
Asbestos Personal Injury/Wrongful Death
Product Liability *(not asbestos or toxic/environmental)* (24)
Medical Malpractice (45)
Medical Malpractice-Physicians & Surgeons
Other Professional Health Care Malpractice
Other PI/PD/WD (23)
Premises Liability (e.g., slip and fall)
Intentional Bodily Injury/PD/WD (e.g., assault, vandalism)
Intentional Infliction of Emotional Distress
Negligent Infliction of Emotional Distress
Other PI/PD/WD

Non-PI/PD/WD (Other) Tort

Business Tort/Unfair Business Practice (07)
Civil Rights (e.g., discrimination, false arrest) *(not civil harassment)* (08)
Defamation (e.g., slander, libel) (13)
Fraud (16)
Intellectual Property (19)
Professional Negligence (25)
Legal Malpractice
Other Professional Malpractice *(not medical or legal)*
Other Non-PI/PD/WD Tort (35)

Employment

Wrongful Termination (36)
Other Employment (45)

Contract

Breach of Contract/Warranty (06)
Breach of Rental/Lease
Contract *(not unlawful detainer or wrongful eviction)*
Contract/Warranty Breach-Seller Plaintiff *(not fraud or negligence)*
Negligent Breach of Contract/Warranty
Other Breach of Contract/Warranty
Collections (e.g., money owed, open book accounts) (09)
Collection Case-Seller Plaintiff
Other Promissory Note/Collections Case
Insurance Coverage *(not provisionally complex)* (18)
Auto Subrogation
Other Coverage
Other Contract (37)
Contractual Fraud
Other Contract Dispute

Real Property

Eminent Domain/Inverse Condemnation (14)
Wrongful Eviction (33)
Other Real Property (e.g., quiet title) (26)
Writ of Possession of Real Property
Mortgage Foreclosure
Quiet Title
Other Real Property *(not eminent domain, landlord/tenant, or foreclosure)*

Unlawful Detainer

Commercial (31)
Residential (32)
Drugs (38) *(if the case involves illegal drugs, check this item; otherwise, report as Commercial or Residential)*

Judicial Review

Asset Forfeiture (05)
Petition Re: Arbitration Award (11)
Writ of Mandate (02)
Writ-Administrative Mandamus
Writ-Mandamus on Limited Court Case Matter
Writ-Other Limited Court Case Review
Other Judicial Review (39)
Review of Health Officer Order
Notice of Appeal-Labor
Commissioner Appeals

Provisionally Complex Civil Litigation (Cal. Rules of Court Rules 3.400-3.403)

Antitrust/Trade Regulation (03)
Construction Defect (10)
Claims Involving Mass Tort (40)
Securities Litigation (28)
Environmental/Toxic Tort (30)
Insurance Coverage Claims *(arising from provisionally complex case type listed above)* (41)

Enforcement of Judgment


Enforcement of Judgment (20)
Abstract of Judgment (Out of County)
Confession of Judgment *(non-domestic relations)*
Sister State Judgment
Administrative Agency Award *(not unpaid taxes)*
Petition/Certification of Entry of Judgment on Unpaid Taxes
Other Enforcement of Judgment Case

Miscellaneous Civil Complaint

RICO (27)
Other Complaint *(not specified above)* (42)
Declaratory Relief Only
Injunctive Relief Only *(non-harassment)*
Mechanics Lien
Other Commercial Complaint Case *(non-tort/non-complex)*
Other Civil Complaint *(non-tort/non-complex)*

Miscellaneous Civil Petition

Partnership and Corporate Governance (21)
Other Petition *(not specified above)* (43)
Civil Harassment
Workplace Violence
Elder/Dependent Adult Abuse
Election Contest
Petition for Name Change
Petition for Relief from Late Claim
Other Civil Petition

Attorney or Party without Attorney (Name/Address) HammondLaw PC; Julian Hammond 1829 Reisterstown Rd Suite 410 Baltimore MD 21208 Telephone: 310-601-6766 State Bar No.: 268489 Attorney for: JOHN S. MOORE, III	FOR COURT USE ONLY FILED SAN MATEO COUNTY AUG 15 2019 Clerk of the Superior Court by  DEPUTY CLERK
SUPERIOR COURT OF CALIFORNIA COUNTY OF SAN MATEO 400 COUNTY CENTER REDWOOD CITY, CA 94063	
Plaintiff JOHN S. MOORE, III	
Defendant NOTRE DAME DE NAMUR UNIVERSITY	Case Number 19CV04765
Certificate Re Complex Case Designation	

This certificate must be completed and filed with your Civil Case Cover Sheet if you have checked a Complex Case designation or Counter-Designation

1. In the attached Civil Case Cover Sheet, this case is being designated or counter-designated as a complex case [or as not a complex case] because at least one or more of the following boxes has been checked:
 - Box 1 – Case type that is best described as being [or not being] provisionally complex civil litigation (i.e., antitrust or trade regulation claims, construction defect claims involving many parties or structures, securities claims or investment losses involving many parties, environmental or toxic tort claims involving many parties, claims involving mass torts, or insurance coverage claims arising out of any of the foregoing claims).
 - Box 2 – Complex [or not complex] due to factors requiring exceptional judicial management.
 - Box 5 – Is [or is not] a class action suit.

2. This case is being so designated based upon the following supporting information [including, without limitation, a brief description of the following factors as they pertain to this particular case: (1) management of a large number of separately represented parties; (2) complexity of anticipated factual and/or legal issues; (3) numerous pretrial motions that will be time-consuming to resolve; (4) management of a large number of witnesses or a substantial amount of documentary evidence; (5) coordination with related actions

pending in one or more courts in other counties, states or countries or in a federal court; (6) whether or not certification of a putative class action will in fact be pursued; and (7) substantial post-judgment judicial supervision]:

See Attachment Re: Complex Designation

(attach additional pages if necessary)

- 3. Based on the above-stated supporting information, there is a reasonable basis for the complex case designation or counter-designation [or noncomplex case counter-designation] being made in the attached Civil Case Cover Sheet.

I, the undersigned counsel or self-represented party, hereby certify that the above is true and correct and that I make this certification subject to the applicable provisions of California Code of Civil Procedure, Section 128.7 and/or California Rules of Professional Conduct, Rule 5-200 (B) and San Mateo County Superior Court Local Rules, Local Rule 2.30.

Dated: August 15 2019

Julian Hammond
[Type or Print Name]




[Signature of Party or Attorney For Party]

Attachment to Certificate Re Complex Case Designation

This is a putative class action lawsuit brought on behalf of adjunct instructors employed by Defendant in California for (a) unpaid wages, (b) failure to provide and authorize paid rest breaks and/or pay rest break premium pay, (c) inaccurate wage statements, (d) waiting time penalties, and (e) unreimbursed business expenses. Plaintiff seeks damages, penalties, interest, injunctive relief and restitution, as well as reasonable attorneys' fees and costs under California Labor Code §§ 226.2, 226.2(a), 226(a) and (e), 226.7, 1194, 1194.2, 201-203 and other relevant statutes. (see attachment).

Plaintiff alleges that Class Members were non-exempt piece rate employees paid a fixed "Course Rate" for each course taught. Class Members were therefore entitled to be paid for non-productive time and rest break time separately and apart from the piece, were entitled to be paid for all hours worked, and were entitled paid off-duty rest periods, pursuant to Labor Code §§ 226.2, 226.7, 1194, and Wage Order No. 4-2001 §§ 4 and 12. However, Defendant (a) failed to compensate Class Members for time spent performing work-related activities outside of the scheduled class time; (b) failed to authorize and permit Class Members to take paid rest periods, and failed to pay premium pay for missed rest periods in violation of Labor Code § 226.7 and IWC Wage Order No. 4-2001 § 12; (c) failed to issue accurate wage statements in violation of Labor Code § 226(a); and (d) failed to pay Class Members all wages due upon termination, or within 72 hours of the separation of their employment from Defendant, in violation of Labor Code § 201. Defendant also failed to reimburse Class Members for their necessarily incurred business expenses in violation of Labor Code § 2802.

Plaintiff anticipates that this case will involve substantial motion practice with complex legal and factual issues, significant discovery and a large number of witnesses. Any class-wide settlement will necessitate substantial judicial supervision. Further, class actions are deemed provisionally complex under California Rules of Court, Rule 3.400(c)(6). Therefore, this action would be handled most efficiently and effectively by the Complex Litigation Department.

	<p align="center">SUPERIOR COURT OF SAN MATEO COUNTY 400 County Center, Redwood City, CA 94063 www.sanmateocourt.org</p>	<p align="center">FOR COURT USE ONLY FILED SAN MATEO COUNTY AUG 15 2019 Clerk of the Superior Court By  DEPUTY CLERK</p>
<p>PLAINTIFF: JOHN S MOORE, III</p> <p>DEFENDANT: NOTRE DAME DE NAMUR UNIVERSITY, A CALIFORNIA NON-PROFIT PUBLIC BENEFIT CORPORATION</p>		
<p align="center">NOTICE OF ASSIGNMENT FOR ALL PURPOSES, DESIGNATION AS COMPLEX CASE, SETTING OF CASE MANAGEMENT CONFERENCE AND COMPLEX FEES DUE</p>		<p>CASE NUMBER: 19-CIV-04765</p>

This case has been filed by Plaintiff(s) as a putative class action. By Standing Order 18-148 of the Presiding Judge, pursuant to California Rules of Court 3.400 and 3.403, this action is automatically deemed a "complex case" and assigned for all purposes to the Court's Complex Civil Litigation Judge, **the Honorable Marie S. Weiner, Department 2**, located at 400 County Center, Courtroom 2E, Redwood City, California 94063, (650) 261-5102.

The parties or their attorneys of record must appear for a Case Management Conference in Department 2 on **11/25/2019 at 9:00 a.m.**

Pursuant to Government Code Section 70616(a), the complex case fee and the first appearance fee must be paid at the time of filing of the first paper in this complex case (Govt.C. 70616(b) and (d)).

Plaintiff(s) pay a single complex case fee of \$1,000 on behalf of all plaintiffs, whether filing separately or jointly.

Defendant(s) pay a complex case fee of \$1,000 each on behalf of each defendant, intervenor, respondent, or adverse party, whether filing separately or jointly, at the time that party files its first paper in this case, not to exceed \$18,000 total.

PLAINTIFF(S) IS/ARE REQUIRED TO SERVE A COPY OF THIS NOTICE ON ALL OTHER PARTIES TO THIS ACTION OR PROCEEDING, and promptly file proof of service.

Date: 8/15/2019

Neal I. Taniguchi, Court Executive Officer/Clerk

CLERK'S CERTIFICATE OF SERVICE

I hereby certify that I am the clerk of this Court, not a party to this cause; that I served a copy of this notice on the below date, by personally delivering a copy of this Notice to the Plaintiff or designee at 400 County Center, Redwood City, California.

Date: 8/15/2019

By:


Candi Latini, Clerk

Exhibit B

FILED
SAN MATEO COUNTY

AUG 22 2019

Clerk of the Superior Court
By  DEPUTY CLERK

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN MATEO
COMPLEX CIVIL LITIGATION

JOHN S. MOORE III, individually and
on behalf of all others similarly situated,

Plaintiffs,

vs.

NOTRE DAME DE NAMUR
UNIVERSITY, a California non-profit
public benefit corporation,

Defendant.

Case No. 19CIV04765
CLASS ACTION

Assigned for All Purposes to
Hon. Marie S. Weiner, Dept. 2

**AMENDED CASE MANAGEMENT
ORDER #1**

19-CIV-04765
CMO
Case Management Order
2002889



Pursuant to the Notice of Assignment for All Purposes, Designation as Complex Case, Setting of Case Management Conference, and Complex Fees due filed August 15, 2019, designating this putative class action case as a complex action, and single assigning to the Honorable Marie S. Weiner in Department 2 of this Court,

IT IS HEREBY ORDERED as follows:

1. All pleadings, motions, applications, briefs, and any and all other papers in this case shall be filed with (and related filing fees paid to) the Civil Clerk's Office located in the Hall of Justice, First Floor, Room A, 400 County Center, Redwood City,

California. **One extra copy of any such filing shall be (1) electronically served upon Department 2 at email address complexcivil@sanmateocourt.org or (2) stamped “Judge’s Copy” and delivered by overnight or first class mail directly to Department 2** located at Courtroom 2E, 400 County Center, Redwood City, California 94063. **DO NOT LEAVE THE JUDGE’S COPY WITH THE CLERK’S OFFICE. PLEASE ADD DEPARTMENT 2 TO YOUR E-SERVICE OR MAILING SERVICE LIST IN THE CASE AS TO ANY AND ALL PAPERS FILED WITH THE COURT.** All motions and briefs shall conform with the California Rules of Court, especially Rule 3.1113, and indicate on the caption page that this matter is assigned for all purposes to Department 2. **DO NOT FAX COPIES OR CORRESPONDENCE TO DEPARTMENT 2, AS THERE IS NO DEDICATED FAX LINE FOR THE CIVIL COMPLEX DEPARTMENT.**

2. As to any and all motions or other matters requiring a hearing, the hearing date shall be obtained *directly* from and approved by Department 2 at **(650) 261-5102** (and *not* with the Civil Clerk’s Office nor with the Research Attorney), *prior* to filing of the moving papers or other initial filings.

3. Pursuant to Section 1010.6(b) of the Code of Civil Procedure, Rule 2.253(a) of the California Rules of Court, and San Mateo County Superior Court Local Rule 2.1.5, all documents in Complex Civil actions (other than the original documents specified below) may be filed electronically. The document (other than exhibits) must be text searchable. Please visit www.sanmateocourt.org for further information on e-filing.

Please note that exhibits to any electronically filed briefs, declarations or other documents must be electronically “bookmarked” as required by CRC Rule 3.1110(f)(4)

4. Until further order of the Court, the following original documents must still be filed/lodged in hardcopy paper:

Ex Parte Motions and Oppositions thereto

Stipulation and Proposed Order

Proposed Judgments

Abstract of Judgment

Appeal Documents, including Notice of Appeal

Administrative Records

5. Proposed Orders should be e-filed with the motion or stipulation to which it relates in conformity with CRC Rule 3.1312(c). You must also email an editable version of the Proposed Order in Word format (not PDF) to complexcivil@sanmateocourt.org so that the judge can modify it prior to signing, if needed.

6. Correspondence to Department 2, such as discovery letter briefs, requests to take matters off calendar, and requests for rescheduling, regarding actions assigned to the Complex Civil Department may be submitted electronically, rather than paper, by e-mail addressed to complexcivil@sanmateocourt.org **All e-correspondence must be sent in at least 12 point type.** This email address is for the Complex Civil Litigation Department to *receive* correspondence, and is not a venue for back-and-forth communications with the judge. Communications to this email address are *not* part of the official court files – just like a paper letter, they are not “filed” documents – and will be retained for at least 30 days and then be subject to deletion (destruction) thereafter.

7. All communications to the complexcivil@sanmateocourt.org email address MUST include in the header “subject line” the **Case Number and Name of Case** (e.g., CIV 654321 *Smith v. Jones*).

8. *Ex parte* applications in this matter shall heard by Department 2, on **Tuesdays and Thursday between 2:00 p.m. and 3:30 p.m.**, and the parties are required to meet the requirements of CRC Rule 3.120 *et seq.*. With the consent of counsel for *all* parties, telephone conferences on *simple* interim case management matters may be scheduled with the Court for a mutually convenient time and date – with the scheduling and logistics of such telephone conferences to be the responsibility of the requesting party/parties.

9. As to any discovery motions, the parties are relieved of the statutory obligation under CRC Rule 3.1345, and thus need *not* file a separate statement – instead the subject discovery requests (or deposition questions) and written responses (or deposition answers or objections) must be attached to the supporting declaration on the discovery motion.

10. Given the nature of this case, the Court views document production and depositions as the most effective means of discovery for adjudication. Accordingly, no party may propound more than 35 special interrogatories *total* and no party may propound more than 35 requests for admissions (other than as to the authenticity of documents) *total*, without prior court order after demonstration of need and a showing that other means of discovery would be less efficient.

11. In regard to all discovery disputes, counsel for the parties (and any involved third parties) shall meet and confer on any and all discovery disputes and, if there are remaining disputes, then counsel for each side shall serve on each other and

mail/deliver *directly* to Department 2 a short letter brief setting forth the dispute and attaching as *tabbed* exhibits to the letter the subject discovery requests and discovery responses (if any). **The discovery letter brief may instead be electronically delivered to Department 2 via email address complexcivil@sanmateocourt.org.** At the time or prior to submitting the letter briefs, counsel for the parties shall also schedule a discovery conference with the Court to occur no sooner than five court days after *delivery* of the last letter brief to the Court, in order to discuss the dispute. THE DISCOVERY DISPUTE LETTER BRIEFS AND THE DISCOVERY CONFERENCE SHALL BE DONE *WELL PRIOR TO* THE STATUTORY DEADLINES FOR FILING OF ANY MOTION TO COMPEL OR OTHER DISCOVERY MOTION. No discovery motion may be filed by any party unless and until there is compliance with the requirement of this Order, i.e., (i) substantive meet and confer, (ii) exchange of letter briefs, and (iii) discovery conference with the Court. This requirement does *not* constitute an extension of time for any statutory time period for filing and serving any motion under the Civil Discovery Act.

12. Pursuant to CRC Rule 3.1113(i), the Complex Civil Department, Dept. 2, **does not require any appendix of non-California authorities, unless specifically stated by the Court as to a particular motion.**

13. The initial Case Management Conference set for November 25, 2019 is VACATED. The initial Case Management Conference is set for **Friday, October 25, 2019 at 2:00 p.m.** in Department 2 of this Court, located at Courtroom 2E, 400 County Center, Redwood City, California. Counsel for all parties shall meet and confer on all matters set forth in California Rules of Court Rule 3.750 and Rule 3.724(8).

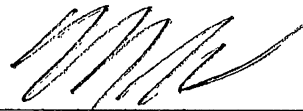
14. In anticipation of the Case Management Conference, counsel for the parties should be prepared to discuss at the hearing *and* file written case management

conference statements (**in prose and details, not using the standardized Judicial Council form**) with a courtesy copy delivered *directly* to Department 2 on or before **October 18, 2019**, as to the following:

- a. Status of Pleadings and Service of Process;
 - b. Status of Discovery, including the initial production of documents by all parties;
 - c. Status of Settlement or Mediation;
 - d. Conclusions reached after meet and confer on all matters set forth in CRC Rule 3.750 and Rule 3.724(8);
 - e. Any anticipated motions and proposed briefing schedule;
 - f. Setting of next CMC date; and
 - g. Any other matters for which the parties seek Court ruling or scheduling.
15. Discovery is not stayed.
16. **PLAINTIFF SHALL PROMPTLY SERVE THIS CMC ORDER #1**

UPON ALL DEFENDANTS OR UPON KNOWN COUNSEL FOR DEFENDANTS, and promptly file proof of service.

DATED: August 22, 2019



HON. MARIE S. WEINER
JUDGE OF THE SUPERIOR COURT

Electronically
FILED
By Superior Court of California, County of San Mateo
CN 9/4/2019
By /s/ Jennifer Tannous
Deputy Clerk

1 JULIAN HAMMOND (SBN 268489)
jhammond@hammondlawpc.com
2 POLINA BRANDLER (SBN 269086)
pbrandler@hammondlawpc.com
3 ARI CHERNIAK (SBN 290071)
acherniak@hammondlaw.com
4 HAMMONDLAW, P.C.
1829 Reisterstown Rd., Suite 410
5 Baltimore, MD 21208
(310) 601-6766
6 (310) 295-2385 (Fax)

7 *Attorneys for Plaintiffs and the Putative Class*

8
9
10
11 **SUPERIOR COURT FOR THE STATE OF CALIFORNIA**
12 **COUNTY OF SAN MATEO**
13

14
15 **JOHN S. MOORE, III**, and **LEE STRAWN**,
individually and on behalf of all others similarly
16 situated,

17 Plaintiffs,

18 vs.

19 **NOTRE DAME DE NAMUR UNIVERSITY**,
a California Non-Profit Public Benefit
20 Corporation,

21 Defendant.

CASE NO. 19-CIV-04765

22 **FIRST AMENDED CLASS ACTION**
23 **COMPLAINT FOR:**

- 24 (1) **Failure to Pay Wages for All Hours**
Worked (Cal. Labor Code §§ 226.2, 1194,
1194.2; IWC Wage Order No. 4-2001, § 4);
25 (2) **Failure to Authorize and Permit Paid Rest**
Breaks and Pay Premium Pay (Cal. Labor
Code §§ 226.2, 226.7, 1194, 1194.2; IWC
Wage Order No. 4-2001, §§ 4, 12);
26 (3) **Failure to Issue Accurate Itemized Wage**
Statements (Cal. Labor Code §§ 226(a), (e)
and (h); 226.2);
27 (4) **Failure to Pay Compensation Due Upon**
Discharge From Employment (Cal. Labor
Code §§ 201-203); and
28 (5) **Unfair, Unlawful, or Fraudulent Business**
Practices (Cal. Bus. & Prof. Code § 17200
et seq.).

DEMAND FOR JURY TRIAL

1 Plaintiffs John S. Moore, III (“Plaintiff Moore”) and Lee Strawn (“Plaintiff Strawn”), on behalf
2 of themselves and all other similarly situated, complain and allege the following:

3 INTRODUCTION

4 1. This is a class action under California Code of Civil Procedure § 382 seeking damages,
5 interest, and other equitable relief, including injunctive relief and restitution, as well as reasonable
6 attorneys’ fees and costs, for unpaid wages, unpaid premium pay, and unreimbursed business expenses
7 pursuant to California Labor Code (“Labor Code”) §§ 226.2, 226.7, 1194, 1194.2, 201-203, and IWC
8 Wage Order (“Wage Order”) No. 4-2001, §§ 4 and 12, Cal. Civ. Proc. Code § 1021.5, and California’s
9 Unfair Competition Law (“UCL”), Business & Professions Code §§ 17200 *et seq.* on behalf of Plaintiff
10 Moore and other individuals who are or have been employed as part-time lecturers by Notre Dame De
11 Namur University (“NDNU” or “Defendant”) in California (“Class Members”) at any time from four
12 years prior to the filing of this complaint through to the trial date (“Class Period”). Defendant’s
13 violations of California’s wage and hour laws, as described more fully below, have been ongoing for at
14 least the past four years, and are continuing at present.

15 2. During the Class Period, Plaintiffs and Class Members were paid on a piece rate per-
16 credit unit basis during each semester. Additionally, Plaintiffs and Class Members did not earn a
17 monthly salary equivalent of two times the state minimum wage for full-time employment. As a result,
18 Class Members do not fall within the professional exemption, or any other exemption, of Industrial
19 Welfare Commission Wage Order No. 4, and are non-exempt employees who are entitled to be paid for
20 all hours worked.

21 3. Because Class Members are piece rate workers, Defendant was required, pursuant to
22 Labor Code §§ 226.2, 226.7 and Wage Order No. 4-2001, § 12, to pay them separately and hourly and
23 at their average hourly rate for their time spent on rest breaks. Defendant, however, did not pay them
24 separately and hourly for their rest break time and as a result violated California’s rest break laws, thus
25 entitling Class Members to one hour of premium pay for each unpaid rest break. Additionally,
26 Defendant was required to pay Class Members for their non-productive time, which it failed to do, in
27 violation of Labor Code §§ 226.2, 1194, 1194.2, and Wage Order No. 4-2001, § 4, resulting in
28 Defendant being liable to Class Members for unpaid wages.

4. Additionally, Defendant maintained policies and/or practices that impeded Class
Members’ abilities to take a paid off-duty ten-minute rest period during days on which Class Members
worked 3.5 hours or longer in a row, and failed to pay premium pay for missed rest breaks, in violation
of Labor Code § 226.7 and Wage Order No. 4-2001 § 12.

1 5. During the Class Period, Defendant failed to pay all compensation due and owing to
2 Plaintiff Moore and Class Members for their unpaid wages and rest break premium pay, upon discharge
3 from employment, which terminated at the end of each semester, in violation of Labor Code §§ 201-
4 203.

5 6. This action is also brought on behalf of a subclass comprised of Plaintiff Strawn and
6 Class Members who are or have been employed by Defendant during the one year prior to the filing of
7 the Complaint through to the trial date (“Wage Statement Subclass Period”) for statutory penalties,
8 injunctive relief, and reasonable attorneys’ fees and costs pursuant to Labor Code § 226(a), (e), and (h)
9 (“Wage Statement Subclass”). During the Wage Statement Subclass Period, Defendant knowingly and
10 intentionally failed to issue accurate itemized wage statements to Plaintiff Strawn and Wage Statement
11 Sub-Class Members by failing to include, among other information, the following: the number of piece-
12 rate units earned and applicable piece rate; the total number of hours worked; all applicable hourly rates
13 and the corresponding number of hours worked at each rate; compensable rest periods; and compensable
14 non-teaching time, in violation of Labor Code §§ 226(a) and 226.2(a). Plaintiff Strawn and Wage
15 Statement Subclass Members suffered injury as a result of Defendant’s violation of Labor Code §
16 226(a).

17 7. As a result of the above Labor Code violations, Defendant committed unfair, unlawful,
18 and fraudulent business practices, in violation of the UCL.

19 **PARTIES**

20 8. Plaintiff Moore is a resident of San Leandro, California who was employed by NDNU as
21 a part-time adjunct instructor from approximately January 8, 2018 until May 11, 2018. Plaintiff Moore
22 taught graduate courses offered at NDNU. During his employment, Plaintiff Moore was subject to
23 Defendant’s unlawful conduct described herein.

24 9. Plaintiff Strawn is a resident of San Francisco, California who was employed by NDNU
25 as a part-time adjunct instructor from approximately 2001 until May 2019. During his employment,
26 Plaintiff Strawn was subject to Defendant’s failure to issue accurate itemized wage statements described
27 herein.

28 10. Defendant is a California non-profit public benefit corporation, with its main campus
located in Belmont, California and a satellite campus in Tracy, California.

///

///

///

JURISDICTION

1
2 11. This Court has jurisdiction over Plaintiff Moore and Class Members' claims for failure to
3 pay wages for all hours worked under Labor Code §§ 226.2, 1194, 1194.2 and Wage Order No. 4-2001
4 § 4.

5 12. This Court has jurisdiction over Plaintiff Moore and Class Members' claims for failure to
6 authorize and permit Class Members to take off-duty rest breaks and/or failure to pay Class Members
7 for their rest breaks separately and hourly apart from the piece, and for failure to pay premium pay for
8 missed rest breaks, under Labor Code §§ 226.2, 226.7, 1194, 1194.2 and Wage Order No. 4-2001 §§ 4,
12.

9 13. This Court has jurisdiction over Plaintiff Moore and Class Members' claims for
10 compensation due upon discharge from employment under Labor Code §§ 201-203.

11 14. This Court has jurisdiction over Plaintiff Strawn and Wage Statement Subclass
12 Members' claims for failure to issue accurate itemized wage statements under Labor Code §§ 226.2(a)
13 and 226(a).

14 15. This Court has jurisdiction over the claims for restitution arising from Defendant's
15 violations of Labor Code §§ 226.2, 226.7, 1194, 1194.2, and Wage Order No. 4-2001 §§ 4 and 12,
16 under the UCL, Bus. & Prof. Code §§ 17203 and 17204.

17 16. This Court has jurisdiction over claims for attorney's fees and costs pursuant to Labor
18 Code § 1194 and Cal. Civ. Proc. Code § 1021.5.

19 17. This Court has jurisdiction over the claims for declaratory and injunctive relief under the
20 UCL, Bus. & Prof. Code §§ 17200 *et seq.*, and Labor Code § 226(h).

21 18. The amount in controversy as to each Plaintiff, including claims for civil penalties and
22 pro rata share of attorney's fees, is less than seventy-five thousand dollars (\$75,000).

VENUE

23 19. Venue is proper in the County of San Mateo pursuant to Cal. Civ. Proc. Code §§ 395(a)
24 and 395.5. Defendant is headquartered in Belmont, California which is within San Mateo County.
25 Plaintiffs were employed at Defendant's Belmont campus.

FACTUAL ALLEGATIONS COMMON TO ALL CLAIMS

Defendant's Business and Class Members' Role in Business Operations

26 20. Defendant is a private, non-profit secondary education provider that offers both
27 undergraduate and graduate programs, online and on campus. The university is organized into three
28 schools: College of Arts and Sciences, the School of Business and Management, and the School of

1 Education and Leadership. Defendant offers 15 undergraduate degrees, 10 graduate degrees, and four
2 credentials. Defendant's academic calendar is split into a Fall, Spring, and six-week Summer semester.
3 As of the fall 2018, Defendant has approximately 1,600 students.

4 21. In order to teach these students, Defendant employs part-time faculty. Each semester,
5 Defendant employs approximately 150 to 200 Class Members to teach its students.

6 **Class Members Are Piece-Rate, Non-Exempt Employees under Wage Order No. 4-2001**

7 22. During the Class Period, Class Members were paid by the piece (i.e., by the credit unit).

8 23. Class Members also did not qualify as exempt under any exemptions set forth in Wage
9 Order No. 4-2001, § 1(A) as they were not paid a salary, but a piece-rate, and were paid less than the
10 monthly salary equivalent of two times the California minimum wage for full-time employment.

11 24. As a result, during the Class Period and Subclass Period, Defendant was required to
12 comply with the obligation to pay Class Members for non-productive time separate and apart from the
13 piece, to pay Class Members separate and apart from the piece for rest breaks, to pay Class Members for
14 all hours worked, to authorize and permit off-duty rest periods, and issue accurate itemized wage
15 statements pursuant to Labor Code §§ 226.2, 226.7, 1194, 226(a) and (e), and Wage Order No. 4-2001,
16 §§ 4 and 12.

17 **Factual Allegations Relevant to Unpaid Wage Claims**

18 **Prior to July 1, 2017**

19 25. On information and belief, prior to July 1, 2017, Defendant issued all Class Members a
20 uniform contract ("Part-Time Faculty Contract") that provided that Class Members were compensated a
21 set amount of money for each credit unit taught. The more units Class Members taught, the more they
22 were paid. This type of compensation is a form of piece-rate compensation.

23 26. The Part-Time Faculty Contract also included the course each Class Member was
24 assigned to teach; the start date and end date ("Contract Period"); and the first and last pay dates.

25 27. During the semester, aside from teaching, Defendant required and expected Class
26 Members to perform, and Class Members did perform, various tasks separately and apart from teaching
27 the Course. Class Members were required and expected to (1) arrive on campus prior to the start of class
28 to prepare the classroom and begin class on time and to be available to meet with students prior to start
of class; (2) be available to students to meet for office hours after class; (3) be available to students
during the week, including by phone and email and respond to student phone calls and emails within 48
hours; (4) create course materials, such as syllabi, tests and quizzes; (5) build daily lesson plans and
lectures; (6) grade assignments, tests and quizzes and submitting grades and progress reports; (7)

1 complete end-of-term checklists with student grades; (8) attend faculty orientations, meetings and
2 workshops; (9) attend graduations; (10) take attendance daily and enter attendance online (“Non-
3 teaching Tasks”).

4 28. In addition to the Non-teaching Tasks performed during the semester, Defendant
5 expected and required Class Members to spend time performing unpaid work, which Class Members did
6 perform, prior to the Contract Period including, but not limited to, preparing and submitting to
7 Defendant a detailed syllabus with the course requirements. Since the Contract Period started one week
8 prior to the beginning of the first pay period Class Members were necessarily not paid for this time.
9 Defendant also expected and required Class Members to spend time performing unpaid work after the
10 end of the Contract Period (and after the last class) such as grading final exams and submitting those
11 grades to Defendant. Since the last day to submit grades was one week after the end of the Contract
12 Period, Class Members were necessarily not paid for this time either.

13 Post July 1, 2017

14 29. Since July 1, 2017, some of the compensation policies applicable to Class Members have
15 been incorporated into a Collective Bargaining Agreement (“CBA”) between Defendant and the
16 Services Employee International Union, Local 1021 (“Local 1021”), whose bargaining unit includes the
17 Class Members’ positions.

18 30. Pursuant to a CBA between Defendant and Local Union 1021, effective July 1, 2017 to
19 June 30, 2020, Defendant paid Class Members according to a schedule set out in Appendix I of the
20 CBA. The schedule provided that Class Members were paid on a per unit basis, with an increase in the
21 per unit rate based on how many years the Class Members taught the subject. For example, starting in
22 August 2017, Level 1 Class Members were paid \$1,216 per unit taught. This rate increased with
23 seniority, and increased for the 2018-2019 academic year, and is set to increase again in 2019/2020. The
24 more units Class Members teach, the more they are paid. This type of compensation is a form of piece-
25 rate compensation.

26 31. In addition, pursuant to Article 26, the CBA provides that Class Members are to be
27 compensated for activities performed outside of teaching each credit. The CBA provides for special
28 compensation for the following activities:

a. **Evaluation of Thesis, Capstone, or Portfolio:** When approved in writing by
the Dean, if a Faculty member fulfills the role of Second Reader of a Thesis, Capstone, or
Portfolio Evaluation, and such work is beyond the scope of regular classroom responsibilities,
the Faculty member will be paid \$300.

b. **References for Students:** When the assignment is made and approved in
writing by the Dean, when a part-time faculty member writes a reference for a student who is

1 no longer part of a class taught by that part-time faculty member, the part-time faculty
 2 member will be paid \$40. References written for students who are in a class taught by a part-
 3 time faculty member in that academic year are considered part of part-time faculty's regular
 work.

4 c. **Independent Study Courses:** When the assignment is made and approved in
 writing by the Dean, instruction in an Independent Study course will be paid \$500 per course.

5 d. **Course Development:** (A) Traditional courses When the assignment is made
 6 and approved in writing by the Dean, when a faculty member develops a new unit-qualified
 7 course that was not previously taught or held at the University, and upon the Dean's receipt
 8 and acceptance of a syllabus and the course as satisfactory, the faculty member will be paid a
 minimum of \$500 per unit. (B) Online Courses When the assignment is made and approved in
 writing by the Dean, when a faculty member develops a new unit-qualified online course, and
 upon the Dean's receipt and acceptance of a syllabus and the course as satisfactory, the faculty
 member will be paid a minimum of \$500 per unit.

9 e. **Participation in Mandatory University-sponsored activities and**
 10 **Professional Development:** Participation during the period of the course teaching
 11 appointment) in all mandatory non-teaching university-sponsored activities beyond the scope
 12 of teaching duties, such as, for example, mandatory trainings, institutional assessment, or
 13 mandatory course or departmental meetings (1 per semester), and participation by part-time
 faculty in activities such as retreats, workshops, seminars, symposia, and trainings pertaining
 to teaching and teaching effectiveness, will be paid for each semester's teaching contract, with
 a monetary stipend of \$150 for fall and spring contracts, only.

14 f. **Committee Work:** Part-time faculty members who serve on a faculty advisory
 15 committee, Joint Labor Management Committee or Union beginning with the 2016-2017
 bargaining, will be paid \$1,500 per semester, upon the completion of the charged work of the
 committee after the semester ends.

16 g. **Substitute Teaching:** When the assignment is made and approved in writing
 17 by the Dean, part-time faculty may teach a class session for another faculty member at the
 18 University with the approval of the Dean of the department or program in which the course is
 being offered. The University will pay the substitute part-time faculty \$80/hour for each hour
 of class instruction. This pay is intended to compensate for preparation time as well.

19 32. Moreover, pursuant to Appendix F, Part II – Faculty Performance, Evaluation, and
 20 Advancement, § 1.B.2, Class Members were required and expected to perform non-teaching activities,
 21 which Class Members did perform, outside of the classroom including: (1) prepare, administer, and
 22 grade examinations, projects, and community services projects; (2) assign grades in an accurate and
 23 timely manner; (3) provide student academic advising and mentoring; (4) perform faculty administration
 24 activities; and (5) perform student recruitment and interaction activities (“CBA Non-teaching Tasks”).

25 ***Defendant's Compensation Practices Applicable to Class Members Violated California's***
 26 ***Minimum Wage and Rest Period Laws***

27 33. Because Class Members are piece-rate workers and are, in any event, non-exempt
 28 employees, Defendant is and was required under Labor Code §§ 226.2, 1194, and 1194.2 to pay them
 separately and hourly from the piece for non-productive time and/or at least minimum wage for all

1 hours worked. However, throughout the Class Period, Defendant failed to pay any wages to Plaintiff
2 Moore and Class Members for the time spent working outside of the Contract Period and time spent
3 performing Non-Teaching Tasks and CBA Non-Teaching Tasks. Nor did Defendant provide any means
4 or mechanism for Plaintiff Moore and Class Members to record their time spent performing work
5 outside of the Contract Period or Non-Teaching Tasks and CBA Non-Teaching Tasks, and had no
6 practice and/or policy in place to compensate Class Members for any work performed outside of the
Contract Period or Non-Teaching Tasks and CBA Non-Teaching Tasks.

7 34. During the Class Period, Class Members routinely worked at least 3.5 hours or more on
8 any given day. Defendant knew or should have known that Class Members worked 3.5 hours or more.
9 Defendant was therefore required under Labor Code § 226.2 to pay Class Members at their average
10 hourly rate for their time spent on rest breaks separately and apart from the piece, yet failed to do so,
11 thereby triggering an obligation to make premium payments to Class Members under Labor Code §
226.7 and Wage Order No. 4-2001, § 12.

12 35. During the Class Period, Defendant maintained policies and/or practices that impeded
13 Class Members' ability to take off-duty 10-minute rest periods during shift of 3.5 hours or more. These
14 policies and/or practices included, but were not limited to, arriving early to prepare for class, and being
15 available to students before, during, and after class. Thus, Defendant failed to authorize and permit
16 compliant rest breaks in accordance with Wage Order No. 4-2001, § 12(A) thereby triggering an
17 obligation to make premium payments to Plaintiff Moore and Class Members under Labor Code § 226.7
and Wage Order No. 4-2001, § 12(B).

18 36. As a consequence of Defendant's failure to pay wages owed for Non-Teaching Tasks and
19 CBA Non-teaching Tasks, for time spent working outside of the Contract Period, and premium pay for
20 unpaid or missed rest breaks, Plaintiff Moore and Class Members did not receive all compensation due
21 to them when their employment terminated at the end of each semester. As a result, Plaintiff Moore and
22 Class Members did not receive all wages due upon termination; nor did they receive these wages due
23 within 30 days of the separation of their employment from Defendant.

24 ***Defendant's Labor Code Violations Were Unfair Business Practices***

25 37. From at least four years prior to the filing of this complaint, through the present,
26 Defendant has adopted and used unfair business practices to reduce Class Members' compensation and
27 increase profits. These unfair business practices include failing to pay Class Members for their time
28 spent on Non-Teaching Tasks and CBA Non-teaching Activities separately and apart from their piece
and/or failing to pay for time spent working outside of the Contract Period; failing to pay Class

1 Members for their time spent on rest periods separate and apart from the piece; failing to authorize and
2 permit timely off-duty rest periods; failing to pay premium pay for missed rest breaks.

3 ***Defendant Failed to Issue Accurate Itemized Wage Statements***

4 38. During the Wage Statement Subclass Period, Defendant failed to issue accurate itemized
5 wage statements to Plaintiff Strawn and Wage Statement Subclass Members. In particular, Defendant
6 issued wage statements to Wage Statement Subclass Members that failed to include the following
7 information, including but not limited to: the number of piece-rate units earned and any applicable piece
8 rate; the total number of hours worked; all applicable hourly rates and the number of hours worked at
9 those rates; compensable rest periods, and compensable non-teaching time.

10 39. Defendant's practice of furnishing Plaintiff Strawn and Wage Statement Subclass
11 Members incomplete and/or inaccurate wage statements in violation of Labor Code § 226(a) was not an
12 isolated and unintentional payroll error due to a clerical or inadvertent mistake, but rather the result of
13 Defendant's regular compensation policies.

14 40. Wage Statement Subclass Members could not readily ascertain their regular hourly rate,
15 the total hours worked at that rate, the total hours worked during a pay period, gross and net wages
16 earned, and number of pieces worked, and were not aware that they were owed unpaid compensation,
17 from the wage statements alone, without reference to other document or information, including wage
18 statements from previous pay periods. Wage Statement Subclass Members were also not issued a wage
19 statement at all for the time spent working before and after the Contract Period. As a result, Wage
20 Statement Subclass Members have suffered injury for the purposes of Labor Code § 226(e).

21 **CLASS ACTION ALLEGATIONS**

22 41. Plaintiff Moore bring this class action pursuant to Cal. Civ. Pro. Code. § 382 on behalf of
23 the Class, and Plaintiff Strawn brings this class action pursuant to Cal. Civ. Pro. Code. § 382 on behalf
24 of the Wage Statement Subclass. Upon information and belief, there are more than 100 Class Members
25 and more than 100 Wage Statement Subclass Members. The members of the Class and Subclass are so
26 numerous that joinder of all members is impractical.

27 42. Plaintiff Moore's claims are typical of the claims of the Class because he was a part-time
28 instructor who was (a) paid on a per-credit basis, (b) not paid separately and apart from the Court Rate,
at his average hourly rate, for time spent on rest breaks, and not paid separately and apart from the Court
Rate, at least minimum wage, for Non-Teaching Tasks and CBA Non-teaching Tasks, (c) subject to
Defendant's policies and practices that prevented and/or impeded his ability to take off-duty rest

1 periods, (d) not paid premium pay for unpaid/missed rest breaks; and (e) not paid all wages due at
2 termination.

3 43. Likewise, Plaintiff Strawn's claims are typical of the claims of the Wage Statement
4 Subclass because he was a part-time instructor who was not provided accurate and itemized wage
5 statement for each pay period.

6 44. Plaintiff Moore will fairly and adequately represent the interests of the Class, and
7 Plaintiff Strawn will fairly and adequately represent the interests of the Subclass. Neither Plaintiff has
8 any conflict with the interests of their respective classes. Plaintiffs have retained competent and
9 experienced counsel in complex class action litigation. Plaintiffs' counsel has the expertise and
10 financial resources to adequately represent the interests of the Class and Subclass.

11 45. Common questions of law and fact exist as to all members of the Class and the Subclass
12 and predominate over any questions solely affecting individual members of the Class and Subclasses.
13 Among the common questions of law and fact common are the following:

- 14 a. Whether per-credit compensation is a form of piece rate compensation;
- 15 b. Whether Class Members are non-exempt employees;
- 16 c. Whether Class Members are entitled to at least minimum wage for all hours worked
17 including time spent working outside of teaching the classroom;
- 18 d. Whether Class Members are entitled to be paid for time spent working outside of the
19 Contract Period;
- 20 e. Whether Class Members are entitled to paid off-duty rest breaks;
- 21 f. Whether Class Members are entitled to separate and hourly pay for their time spent
22 performing Non-Teaching Task and CBA Non-Teaching Tasks and on rest breaks;
- 23 g. Whether Defendant violated Labor Code §§ 226.2, 1194, 1194.2 and Wage Order No.
24 4-2001, § 4 by failing to pay Plaintiff Moore and the Class at least minimum wage for
25 their time spent on their Non-Teaching Tasks and CBA Non-Teaching Tasks, and for
26 time spent working outside of the Contract Period during the Class Period;
- 27 h. Whether Defendant is liable for liquidated damages to Plaintiff Moore and the Class
28 under Labor Code §§ 1194 and 1194.2 for its failure to pay for their time spent on Non-
Teaching Tasks and CBA Non-Teaching Tasks, and for time spent working outside of
the Contract Period during the Class Period;

- 1 i. Whether Defendant violated Labor Code § 226.2 and Wage Order No. 4-2001, § 4 by
2 failing to pay Plaintiff Moore and the Class separately and apart from the piece for their
3 rest breaks during the Class Period;
- 4 j. Whether Defendant violated Wage Order No. 4-2001, § 12 by maintaining policies
5 and/or practices that prevented or impeded Class Members from taking paid rest
6 periods during the Class Period;
- 7 k. Whether Defendant violated Labor Code § 226.7 and Wage Order No. 4-2001, § 12 by
8 failing to pay premium pay to the Class for each day that a paid rest period was not
9 provided during the Class Period;
- 10 l. Whether Defendant violated Labor Code §§ 201-203 by failing to pay Class Members
11 for all of their wages due to them upon separation of their employment each semester,
12 including the wages owed to them for their time spent on rest periods and Non-
13 Teaching Tasks and CBA Non-teaching Tasks, and time spent working outside of the
14 Contract Period;
- 15 m. Whether these violations constitute unfair, unlawful, and fraudulent business practices,
16 in violation of UCL;
- 17 n. Whether Plaintiff Moore and Class Members are entitled to restitution under Bus. &
18 Prof. Code § 17200 *et seq.* for uncompensated wages, and unpaid premium pay;
- 19 o. Whether Defendant was required to furnish Wage Statement Subclass Members with
20 wage statements that included total hours worked, applicable hourly rates earned,
21 accurate gross and net wages, pursuant to Labor Code § 226(a); and that included the
22 total hours of compensable rest periods, the rate of compensation, and the gross wages
23 paid for those periods, pursuant to Labor Code § 226.2(a);
- 24 p. Whether Defendant violated Labor Code § 226.2(a) and/or Labor Code § 226(a) by
25 failing to issue accurate itemized wage statements;
- 26 q. Whether Defendant violated Labor Code § 226(a) by failing to issue wage statements
27 for time spent working outside of the Contract Period;
- 28 r. Whether Defendant's violation of Labor Code § 226(a) was knowing and intentional;
- s. Whether Wage Statement Subclass Members suffered injury for the purposes of Labor
Code § 226(e);
- t. Whether Wage Statement Subclass Members are entitled to injunctive relief under
Labor Code § 226(h);

- 1 u. The proper formula(s) for calculating damages, interest, and restitution owed to
- 2 Plaintiff Moore and the Class Members;
- 3 v. Whether the Class is entitled to declaratory and injunctive relief;
- 4 w. Whether Class Members are entitled to reasonable attorneys' fees and costs pursuant to
- 5 applicable law.

6 46. Class action treatment is superior to any alternative method to ensure the fair and
7 efficient adjudication of the controversy alleged herein. Such treatment will permit a large number of
8 similarly situated persons to prosecute their common claims in a single forum simultaneously,
9 efficiently, and without duplication of effort and expense that numerous individual actions would entail.
10 No difficulties are likely to be encountered in the management of this class action that would preclude
11 its maintenance as a class action, and no superior method exists for the fair and efficient adjudication of
12 this controversy. Class Members are readily identifiable from Defendant's employee rosters and/or
13 payroll records.

14 47. Defendant's actions are generally applicable to the entire Class. Prosecution of separate
15 actions by individual members of each Class creates the risk of inconsistent or varying adjudications of
16 the issues presented herein, which, in turn, would establish incompatible standards of conduct for
17 Defendant.

18 48. Because joinder of all members is impractical, a class action is superior to other available
19 methods for the fair and efficient adjudication of this controversy. Furthermore, the amounts at stake
20 for many members of each Class, while substantial, may not be sufficient to enable them to maintain
21 separate suits against Defendant.

22 **FIRST CAUSE OF ACTION**

23 **Failure to Pay for Non-productive Time/Failure to Pay for All Hours Worked**
24 **[Cal. Labor Code §§ 226.2, 1194, 1194.2; Wage Order No. 4-2001, § 4]**

25 49. Plaintiff Moore re-alleges and incorporates by reference each and every allegation set
26 forth in the preceding paragraphs.

27 50. Labor Code § 1194 provides, in relevant part:

28 "Notwithstanding any agreement to work for a lesser wage, any employee receiving less
than the legal minimum wage ... applicable to the employee is entitled to recover in a
civil action the unpaid balance of the full amount of this minimum wage [...], including
interest thereon, reasonable attorney's fees, and costs of suit."

51. Labor Code § 1194.2 provides, in relevant part:

1 “In any action under ... Section 1194 to recover wages because of the payment of a wage
2 less than the minimum wage fixed by an order of the commission, an employee shall be
3 entitled to recover liquidated damages in an amount equal to the wages unlawfully unpaid
and interest thereon. ...”

4 52. Labor Code § 226.2(a)(1) states that “employees shall be compensated for ...
nonproductive time separate from any piece-rate compensation.”

5 53. As set forth above, during the Class Period, Plaintiff Moore and Class Members were
6 paid on a per-credit basis which compensated them for the time spent teaching. However, Defendant
7 did not compensate them for their time spent on Non-Teaching Tasks, and CBA Non-teaching Tasks,
8 separately and apart from the piece, or at all.

9 54. As also set forth above, during the Class Period, Plaintiff Moore and Class Members
10 were required, as part of their job duties, to perform work before and after their Contract Periods.
11 However, Defendant paid them only for work performed during the Contract Periods. Thus, Plaintiff
12 Moore and Class Members were not paid anything for the time spent working before or after their
Contract Periods.

13 55. Accordingly, pursuant to § 4 of Wage Order No. 4-2001 and Labor Code §§ 226.2,
14 1194, and 1194.2, Plaintiff Moore and the Class are entitled to recover, at a minimum, their unpaid
15 hourly wages, plus liquidated damages in an additional amount equal to the wages unlawfully withheld
16 during the Class Period.

17 56. Plaintiff Moore and, on behalf of himself and all other Class Members, requests relief
18 as described below.

19 **SECOND CAUSE OF ACTION**

20 **Failure to Authorize and Permit Paid Rest Periods or Pay Missed Rest Period Premiums [Cal. Labor Code §§ 226.2 and 226.7; IWC Wage Order No. 4-2001 § 12]**

21 57. Plaintiff Moore re-alleges and incorporates by reference each and every allegation set
22 forth in the preceding paragraphs.

23 58. Labor Code § 226.2(a)(1) states that “employees shall be compensated for rest and
recovery periods.... separate from any piece-rate compensation.”

24 59. Wage Order No. 4-2001 § 12(A) provides:

25 “(A) Every employer shall authorize and permit all employees to take rest periods, which
26 insofar as practicable shall be in the middle of each work period. The authorized rest
27 period time shall be based on the total hours worked daily at the rate of ten minutes net
rest time per four hours or major fraction thereof. However, a rest period need not be
28 authorized for employees whose total daily work time is less than three and one-half (3

1 1/2) hours. Authorized rest period time shall be counted as hours worked for which there
2 shall be no deduction from wages.”

3 60. California Labor Code § 226.7(a) provides, “No employer shall require any employee to
4 work during any meal or rest period mandated by an applicable order of the Industrial Welfare
5 Commission.”

6 61. As set forth above, during the Class Period, Plaintiff Moore and Class Members routinely
7 worked 3.5 hours or more in a workday. However, Defendant did not compensate them for their time
8 spent on rest breaks separately and apart from the piece, as required under Labor Code § 226.2.

9 62. Defendant also maintained policies and/or practices that impeded Class Members from
10 taking off-duty rest breaks in violation of Wage Order No. 4-2001, § 12, including by requiring them to
11 be available to students before, during, and after class.

12 63. As a result of Defendant’s policies and practices, Plaintiff Moore and the Class were not
13 authorized and permitted to take compliant rest breaks, and are entitled to recover one additional hour of
14 pay at the employee’s regular rate of compensation for each day in which Defendant failed to authorize
15 and permit them to take paid rest periods as required under Labor Code § 226.7 and Wage Order No. 4-
16 2001, § 12.

17 64. Plaintiff Moore, on behalf of himself and all other Class Members, requests relief as
18 described below.

19 **THIRD CAUSE OF ACTION**
20 **Failure to Pay Compensation Due Upon Termination**
21 **[Cal. Labor Code §§ 201-203]**

22 65. Plaintiff Moore re-alleges and incorporates by reference each and every allegation set
23 forth in the preceding paragraphs.

24 66. Labor Code §§ 201 and 202 require Defendant to pay all compensation due and owing to
25 Class Members promptly after their employment was terminated. Labor Code § 203 provides that if an
26 employer willfully fails to pay compensation promptly upon discharge or resignation, as required by
27 §§ 201 and 202, then the employer is liable for penalties in the form of continued compensation up to 30
28 work days.

67. As alleged herein, Defendant willfully failed to pay Plaintiff Moore and the Class for
their time spent performing Non-Teaching Tasks and CBA Non-Teaching Tasks, failed to pay for time
spent working outside of the Contract Period, failed to pay for rest breaks separately and apart from the
piece, and failed to pay rest break premium pay during their employment, or upon their termination or

1 separation from employment with Defendant, which occurred at the end of each semester, as required
2 by Labor Code §§ 201 and 202.

3 68. In light of the clear law requiring that Defendant pay for time spent on Non-Teaching
4 Tasks, CBA Non-Teaching Tasks and/or to pay for all hours worked, and rest breaks hourly and
5 separately from the piece, and the clear law requiring Defendant to authorize and permit Class Members
6 to take off-duty rest breaks and pay premium pay for unpaid/missed rest breaks, Defendant's failure to
7 pay wages for such time was willful.

8 69. As a result, Defendant is liable to Plaintiff Moore and other members of the Class for
9 waiting time penalties amounting to thirty (30) days' wages for each formerly employed Class Member
10 pursuant to Labor Code § 203.

11 70. Plaintiff Moore, on behalf of himself and all other Class Members, requests relief as
12 described below.

13 **FOURTH CAUSE OF ACTION**
14 **Violation of Unfair Competition Laws**
15 **[Cal. Bus. & Prof. Code § 17200 *et seq.*]**
16 **As to Plaintiff Moore and the Class**

17 71. Plaintiff Moore re-alleges and incorporates by reference each and every allegation set
18 forth in the preceding paragraphs.

19 72. The UCL prohibits any unlawful, unfair, or fraudulent business practices. Labor Code
20 § 90.5(a) states that it is the public policy of California to vigorously enforce minimum labor standards
21 in order to ensure employees are not required to work under substandard and unlawful conditions, and
22 to protect employers who comply with the law from those who attempt to gain competitive advantage at
23 the expense of their workers by failing to comply with minimum labor standards. Through its actions
24 alleged herein, Defendant has engaged in unfair competition within the meaning of the UCL, because
25 Defendant's conduct has violated state wage and hour laws as herein described.

26 73. Beginning at least four years prior to the filing of this Complaint, Defendant committed,
27 and continues to commit, acts of unfair competition, as defined in the UCL by wrongfully denying Class
28 Members payment in the amount of at least minimum wages for all their hours worked in violation of
Labor Code §§ 226.2 and 1194 and Wage Order No. 4-2001, § 4; by failing to pay Class Members for
their rest breaks separately and apart from the piece in violation of Labor Code § 226.2; by failing to
authorize and permit paid rest breaks, and by failing to pay premium pay for missed rest breaks in
violation of Labor Code § 226.7 and Wage Order No. 4-2001 § 12.

1 74. By its actions and omissions, Defendant has substantially injured Plaintiff Moore and the
2 Class Members. Defendant's conduct as herein alleged has damaged Plaintiff Moore and the Class and
3 was substantially injurious to them.

4 75. The harm to Plaintiff Moore and the Class resulting from Defendant's labor code
5 violations outweighs the utility, if any, of Defendant's policies and practices. Therefore, Defendant's
6 actions described herein constitute an unfair business practice or act within the meaning of the UCL.

7 76. Plaintiff Moore, on behalf of himself and all other Class Members, requests relief as
8 described below.

9 **FIFTH CAUSE OF ACTION**
10 **Failure to Issue Accurate Itemized Wage Statements**
11 **[Cal. Labor Code §§ 226(a), (e) and (h); 226.2(a)]**
12 **As to Plaintiff Strawn and the Wage Statement Subclass**

13 77. Plaintiff Strawn re-alleges and incorporates by reference each and every allegation set
14 forth in the preceding paragraphs.

15 78. Labor Code § 226(a) requires an employer to furnish employees who are non-exempt
16 with wage statements that contain total hours worked (subd. (a)(2)), all applicable hourly rates earned
17 (subd. (a)(9)), accurate gross wages (subd. (a)(1)), and accurate net wages earned (subd. (a)(5)).

18 79. In addition to the information an employer is required to list on employees' wage
19 statements pursuant to Labor Code § 226(a), Labor Code § 226.2(a) requires employers to list on
20 employees' wage statements, among other information, "total hour of compensable rest and recovery
21 periods, the rate of compensation, and the gross wages paid for those periods during the pay period."

22 80. Defendant, however, furnished Wage Statement Subclass Members with wage statements
23 that did not include entries for hours worked and hourly rates earned. Rather the wage statements
24 included a lump sum earned during each pay period and no hours or hourly rates.

25 81. Additionally, as a consequence of Defendant's failure to pay separately and hourly for
26 rest periods and Non-Teaching Tasks and CBA Non-Teaching Tasks, and failure to pay premium pay
27 for unpaid/missed rest breaks, Defendant failed to issue accurate wage statements which accounted for
28 (1) gross wages earned, (2) total hours worked, (3) the number of piece-rate units earned and any
applicable piece rate, (4) net wages earned (5) total hours of compensable rest and recovery periods; (6)
rate of compensation for rest and recovery periods; (7) gross wages paid for compensable rest and
recovery periods; (8) total hours of nonproductive time; (9) rate of compensation for nonproductive
time; and (10) gross wages paid for nonproductive time in violation of Labor Code § 226.2(a) and/or

1 226(a)(1), (a)(2), (a)(5), and (a)(9).

2 82. Plaintiff Strawn and the Wage Statement Subclass suffered injury as a result of
3 Defendant's knowing and willful violation of Labor Code §§ 226(a), and/or 226.2 in that they could not
4 readily ascertain their regular hourly rate, the total hours worked at that rate, the total hours worked
5 during a pay period, gross and net wages earned, and number of pieces worked, and were not aware that
6 they were owed unpaid compensation for their time spent performing Non-teaching Tasks and CBA
7 Non-Teaching Tasks, and for time spent working outside their Contract Period, from the wage
8 statements alone, without reference to other document or information, including wage statements from
9 previous pay periods. Plaintiff Strawn and the Wage Statement Subclass also suffered injury as a result
10 Defendant's failure to issue wage statements at all for the work performed outside of the Contract
11 Period.

11 83. As a result of Defendant's knowing and intentional violations of Labor Code § 226(a)
12 and/or § 226.2 described above, Wage Statement Subclass Members are entitled to recover an initial
13 penalty of \$50, and subsequent penalties of \$100, for each incomplete and/or inaccurate wage statement
14 issued to them, up to an amount not exceeding an aggregate penalty of \$4,000 for each Wage Statement
15 Subclass Member, pursuant to Labor Code § 226(e).

16 84. Pursuant to Labor Code § 226(h), Plaintiff Strawn and Wage Statement Subclass
17 Members are entitled to an injunction enjoining Defendant from continuing to issue inaccurate wage
18 statements that violate the Labor Code § 226(a) and/or 226.2.

19 85. Plaintiff Strawn, on behalf of himself and Wage Statement Subclass Members, requests
20 relief as described below.

21 **PRAYER FOR RELIEF**

22 **WHEREFORE**, Plaintiff Moore, on behalf of himself and the Class, and Plaintiff Strawn on
23 behalf of himself and the Wage Statement Subclass, pray for the following relief:

24 A. An Order that this action may proceed and be maintained as a class action, with the Class
25 and Subclass as designated and defined in this Complaint;

26 B. That Plaintiff Moore be certified as representative of the Class, and Plaintiff Strawn be
27 certified as representative of the Wage Statement Subclass; and their counsel be certified as Class
28 Counsel;

C. On the First Cause of Action: That the Court find and declare that Defendant violated
Labor Code §§ 226.2, 1194, and 1194.2 and/or Wage Order No. 4-2001, § 4 by failing to pay Plaintiff
Moore and Class Members for their time spent on Non-Teaching Tasks and CBA Non-teaching Tasks

1 separately and apart from the piece, and failing to pay for all hours works outside of the Contract Period,
2 and award Plaintiff Moore and the Class the amount of their unpaid minimum wages owed to them, plus
3 liquidated damages in an amount equal to the wages unlawfully withheld during the Class Period.

4 D. On the Second Cause of Action: That the Court find and declare that Defendant violated
5 Labor Code §§ 226.2, and/or 226.7, and Wage Order No. 4-2001, § 12 by failing to pay Plaintiff Moore
6 and Class Members for their time spent on rest breaks separately and apart from the piece, failing to
7 authorize and permit timely off-duty rest breaks, and failing to pay premium pay for unpaid/missed rest
8 breaks; and award Plaintiff Moore and the Class unpaid premium pay for missed rest breaks.

9 E. On the Third Cause of Action: That the Court find and declare that Defendant has
10 violated §§ 201–203 of the California Labor Code, and award Plaintiff Moore and the Class penalties in
11 the amount of 30 days’ wages per Class Member.

12 F. On the Fourth Cause of Action: That the Court find and declare Defendant has violated
13 the UCL by failing to authorize and permit paid off-duty rest breaks for members of the Class, in
14 violation of Labor Code §§ 226.2, 226.7, and Wage Order No. 4-2001, § 12; by failing to pay Class
15 Members for their Non-Teaching Tasks and CBA Non-teaching Tasks separately and apart from the
16 piece, in violation of Labor Code § 226.2 and 1194, and Wage Order No. 4-2001, § 4; by failing to pay
17 Class Members for time spent working outside of the Contract Period in violation of Labor Code §
18 1194; award restitution to the Class; and that the Court enjoin Defendant from continuing to enforce
19 policies and practices that violate the Labor Code.

20 G. On the Fifth Cause of Action: That the Court find and declare that Defendant has
21 willfully violated §§ 226(a) and 226.2(a) of the California Labor Code; enjoin Defendant, pursuant to
22 Labor Code § 226(h), from continuing to issue inaccurate wage statements that violate the Labor Code §
23 226(a) and/or 226.2; and award Plaintiff Strawn and Wage Statement Subclass Members statutory
24 penalties as specified in Labor Code § 226(e).

25 H. That the Court award attorneys’ fees and costs of suit to the extent permitted by law,
26 including, but not limited to, Labor Code §§ 1194, 226(e) and (h), and Cal. Civ. Pro. Code § 1021.5.

27 I. All other relief as this Court deems proper.
28

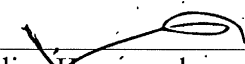
1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

JURY DEMAND

Plaintiffs hereby demands trial by jury of all claims against Defendant alleged herein.

Dated: September 4, 2019

Respectfully submitted,



By: Julian Hammond
HAMMONDLAW, P.C.
Attorneys for Plaintiff

Exhibit C



FACULTY COLLECTIVE BARGAINING AGREEMENT

BETWEEN

NOTRE DAME DE NAMUR UNIVERSITY

and

SERVICE EMPLOYEES INTERNATIONAL UNION, LOCAL 1021

July 1, 2017

to

June 30, 2020

A handwritten signature in black ink, located in the bottom right corner of the page. The signature is cursive and appears to be the name of a representative from one of the parties.

TABLE OF CONTENTS

ARTICLES FOR ALL FACULTY

Article 1 – Recognition, Coverage, and Scope	1
Article 2 – Savings Clause	2
Article 3 – Union Rights	2
Article 4 – Management Rights	4
Article 5 – No Strike, No Lockout	5
Article 6 – Non-Discrimination	5
Article 7 – Support for Diversity Efforts	6
Article 8 – Academic Freedom and Professional Ethics	6
Article 9 – Grievance and Arbitration	7
Article 10 – Faculty Advisory Committees and Joint Labor Management Committee	9
Article 11 – Leave for Union Business	11
Article 12 – New Faculty Union Orientation	12
Article 13 – Just Cause, Discipline, Personnel File	12
Article 14 – Position Posting and Filing of Vacancies	12
Article 15 – Base Salaries	12
Article 16 – Faculty Development Funds	14

ARTICLES FOR FULL-TIME FACULTY, ONLY

Article 17 – Health Benefits	14
Article 18 – Retirement	14
Article 19 – Faculty Workload	15
Article 20 – Faculty as Academic Unit Leaders	16
Article 21 – Layoffs & Severance Pay	17

PART-TIME FACULTY SECTION

Article 22 – Course Teaching Appointment	18
Article 23 – Processing of Unemployment Insurance Claims	19
Article 24 – Instructional Services & Materials	20
Article 25 – Functions and Responsibilities of Part Time Faculty	20

Article 26 –Part-Time Faculty Special Compensation	21
--	----

APPENDICES AND SIDE LETTER

Appendix A – Academic Freedom	23
Appendix B – Professional Ethics	25
Appendix C – Full-Time Faculty Responsibilities	26
Appendix D – Full-Time Advising and Non-Regular Compensation Policies	28
Appendix E – Annual Faculty Plan And Report	30
Appendix F – Faculty Performance, Evaluation, Advancement and Other Policies	31
Appendix G –Faculty Development, Leaves, and Benefits Policies	59
Appendix H – Non-Discrimination	72
Appendix I – Salary Scales	75
Side Letter – <i>Re: PPP</i>	80
Signature Page	81

FOR ALL FACULTY

ARTICLE 1 – RECOGNITION, COVERAGE AND SCOPE

Notre Dame de Namur University recognizes Service Employees International Union Local 1021 as the exclusive representative for purposes of collective bargaining concerning wages, hours and working conditions for the following units of employees of the University:

A. Full-Time Unit

All Full-Time Faculty and Full-Time Librarian Faculty (Tenured, Tenure-Track, and Non-Tenure Track) employed by the employer; excluding all other employees, including without limitations: part-time faculty; core faculty; non-teaching faculty; visiting faculty and visiting scholars; staff members who teach on a part-time basis; full-time and part-time exempt staff and non-exempt staff members; research employees; University officers and staff who hold faculty titles and/or teach; supervisors (including Department Chairs and/or Program Directors who are supervisors as defined by the Act); managerial employees; members of religious orders; trustees; other professional employees; confidential employees; University emerita and emeritus faculty without full-time teaching duties; student-employees; matriculated students and guards.

B. Part-Time Unit

All part-time faculty, including Lecturers, Senior Lecturers, Assistant Librarians (part-time), Associate Librarians (part-time), Core Faculty, Part-time In-Residence faculty, Part-time teaching Professors Emeritus and Emerita employed by the Employer at its Belmont, California facility; excluding all other employees, full-time faculty, all administrators with faculty ranks, non-teaching faculty, Honorary Degree Holders, Deans, Presidents, Provosts, visiting faculty and visiting scholars, staff members that teach on a part-time basis, full-time and part-time exempt staff and non-exempt staff members, research employees, University officers and staff who hold faculty titles and/or teach, student-employees, University Emeritus and Emerita without part-time teaching duties, administrators, managerial employees, members of religious orders, trustees, other professional employees, confidential employees, and supervisors as defined by the Act (including Department Chairs and/or Program Directors who are supervisors as defined by the Act).

C. Coverage and Scope

Part I of this Agreement applies to University faculty members who are covered by either A above (full-time faculty members) or B above (part-time faculty members).

Part II of this Agreement applies to full-time faculty members, only.

Part III of this Agreement applies to part-time faculty members, only.

The Agreement covers faculty members of the University teaching at all locations, not limited to Belmont, and teaching in all modalities including traditional, intensive, on-line and hybrid.

A part-time faculty member shall not obtain full-time faculty member status, except following University posting of a vacant full-time faculty position and successful completion of the application and selection process resulting in the letter of hire signed by the University. A full-time faculty member shall not obtain part-time faculty member status, except following University posting of a vacant part-time faculty position and successful completion of the application and selection process resulting in the letter of hire signed by the University or upon retirement agreement that provides for part-time status.

Administrators with faculty rank may return to the faculty unit upon conclusion of service in Administration, retaining their date of hire as faculty member.

This Agreement in the form mutually executed by the parties constitutes the sole and exclusive record of agreements reached between the University and the Union. Each party hereby affirms that it had full opportunity to bargain collectively as to any and all lawful subjects of collective bargaining; therefore, each party waives the right to bargain collectively on any or all subjects of collective bargaining applicable to the period of this Agreement. The parties retain obligations to negotiate on effects as stated in the Layoff and Severance Article.

ARTICLE 2 – SAVINGS CLAUSE

It is the intention of the parties to this Agreement that the sections, paragraphs, sentences, clauses and phrases of this Agreement are subject to applicable law and are separable. If any part of this Agreement is found to be invalid because of a conflict with applicable law, such invalidity shall not affect the remaining parts of this Agreement, and the parties shall meet to negotiate a substitute provision.

ARTICLE 3 – UNION RIGHTS

A. Union Security and Check off – Effective August 15, 2017

1. Each faculty member covered by this Agreement, who does not voluntarily acquire and maintain membership in the Union shall be required as a condition of continued employment to pay to the Union each pay period in which the faculty member receives a paycheck, beginning no later than thirty-one (31) days after the beginning of work, an agency fee (a service charge as a contribution toward the cost of administration of this Agreement and representation by the Union). The amount of such agency fees shall be determined by the Union in accordance with applicable law, but not more than membership dues.

2. Payment of union dues or agency fees, voluntary contribution to the SEIU Local 1021 Committee on Political Education (COPE), or contributions to a charitable organization selected from a list approved by the University and the Union may be made by all faculty members via the check-off procedure provided by this Article. It is agreed that the University shall assume no financial or other obligation arising out of the provisions of this Article, and the Union hereby agrees that it shall indemnify and hold the University harmless from any claims, actions, or proceedings by a faculty member arising from the University's actions in accordance with this Article.

3. Each payday that the faculty member receives a paycheck, the University shall, during the term of this Agreement, deduct from faculty member compensation a sum of dues or fees owed to the Union for the month covered by that paycheck and authorized under federal labor law, provided the faculty member has furnished the University a written assignment executed in accordance with the law. If the faculty member has not submitted the authorization form by the time of his or her first paycheck, the deduction shall be made twice from his or her second paycheck.

4. The University shall remit the dues or fees to the Union along with a list of payers within the first ten (10) working days of the month following the month of collection.

B. Posting

The University and SEIU shall post on their websites an official version of this Agreement.

C. Access

It is to the mutual benefit of the Union and the University that the Union timely communicate with the faculty covered by the Agreement.

To that end and for that purpose, the University provides the Union with full-time bulletin boards that are designated by mutual agreement between the parties.

To that end and for that purpose, the University permits privilege of physical access for campus meetings and events for unit representatives and other Union representatives at reasonable times and places, provided an appointment with a University representative is made in advance with the office of Associate Provost; however, use of University facilities shall be scheduled to University policies.

To maintain access privileges, Union access must be utilized in order for the Union to communicate with the faculty covered by the Agreement and must be compliant with University rules and regulations of general application, and not contrary to policies against harassment and discrimination. The parties will meet to discuss disagreements and, if they are not resolved, they may have recourse to the grievance procedure.

D. Communication

Intra-campus mail service, including electronic mail services, but excluding printing and photocopying, shall be available to SEIU at no cost for official SEIU communications. Faculty mailboxes may be utilized by SEIU for purposes of SEIU communication.

E. Designation of Representatives

The names of the SEIU Representatives, chief steward, union chapter officers, and other stewards will be provided to the Executive Director of Human Resources at least ten (10) days before the start of each term and within five (5) business days of any subsequent change.

ARTICLE 4 – MANAGEMENT RIGHTS

Except as specifically expressed in writing in this Agreement, nothing shall in any way limit or be deemed to limit the University in its exercise of management rights and functions, all of which are vested exclusively in the University, including but not limited to the following:

The determination, modification, direction, control and implementation of the University's mission, strategic plan, goals, resources, and priorities; the University's budgets, budget savings and/or plans for increased efficiency; the University's academic calendar during which courses and services will be provided to students; and the purpose, size, number and location of academic and other programs and departments of the University;

The determination, modification, direction, control and implementation of the University's rules and procedures for its operations;

The determination, modification, direction, control and implementation of the qualifications, skills, responsibilities, assignments and standards of performance and conduct for all employees of the University;

The determination, modification, direction, control and implementation of decisions of which categories of faculty and of which individual faculty members will deliver courses and educational services for students;

The determination, modification, direction, control and implementation of student recruitment, admission, and regulation of conduct;

The determination, modification, direction, control and implementation of the methods of operation and of organization of the work of the University, including instructional modalities for courses and other educational services for students;

The determination, modification, direction, control and implementation of decisions for the expansion, contraction, start-up and close down of any and/or all educational services and of administrative services, facilities and operations, generally and specifically within any campus, department, activity or function of the University;

The determination, modification, direction, control and implementation of appropriate staffing levels of any group of University employees generally, and specifically within any University department, activity or function;

The determination, modification, direction, control and implementation of decisions to hire, promote or demote, and employ, continue or discontinue to employ, or to transfer, reassign, or relieve from duty, employees of the University;

The determination, modification, direction, control and implementation of the construction, removal, specification and acquisition of facilities, apparatus, equipment or other materials; and

The determination, modification, direction, control and implementation of the use and identity of suppliers, vendors, external support, independent contractors, and sub-contractors.

The above summary of the exclusive rights and functions of the management of the University is not exhaustive and does not exclude any normal or customary management rights or functions. The exercise, or non-exercise, of any rights or functions of management shall not limit or serve as a waiver.

The exercise by the University of the rights of management of the University shall not be subject to any claim by the Union or by any covered faculty member in any legal proceeding, grievance or arbitration, unless the exercise by the University violates a specified express written provision of this Agreement.

ARTICLE 5 – NO STRIKE, NO LOCKOUT

During the term of this Agreement, neither the Union nor any bargaining unit employees will engage in a strike, picketing, slow-down, or stoppage, nor shall the University lock out the employees. Violations of this provision may constitute just cause for discipline up to and including discharge.

ARTICLE 6 – NON-DISCRIMINATION

NDNU is an equal-opportunity employer and educational institution. NDNU prohibits unlawful discrimination based on sex (including gender), race, color, religion, religious creed, age (over 18 years), mental or physical disability, medical condition as defined by law, national origin, ancestry, marital status, veteran status, sexual orientation, gender identity or expression, and any other factor made unlawful by federal, state, or local law, including participation or non-participation in union activities. NDNU's commitment to equal opportunity employment applies to all persons involved in the operations of the University and prohibits unlawful discrimination by any employee of the University.

There shall be no retaliation for reporting complaints of harassment, discrimination or retaliation. A faculty member shall not suffer retaliation for participation or non-participation in SEIU activities.

Faculty will comply with University policies against discrimination, harassment, and reporting discrimination or retaliation. Failure to do so may be grounds for discipline up to and including discharge.

Faculty may choose to have a Union representative present during any meeting held under this Article.



ARTICLE 7 - SUPPORT FOR DIVERSITY EFFORTS

In light of the University's diverse student body and the University's effort to promote high quality teaching to the students, the University and the Union shall work together to promote racial and ethnic diversity of the faculty in the following ways:

1. The University will hold mandatory anti-racism and implicit bias training for full-time faculty. The University will seek input from the Director of Diversity and the Union on educators/trainers before final selection.
2. During the first year of the Agreement, the University will provide an expert faculty diversity advisor to work with the Director of Diversity to advise the Provost and President on the recruitment and retention of diverse faculty members.
3. The University will seek input from the Director of Diversity and the Union to promote best practices in the application and hiring process for diverse faculty. The University will allocate dedicated financial resources to support appropriate outreach efforts to solicit diverse faculty applicants.
4. During the final year of the Agreement, the University will prepare a self-study, reporting the racial and ethnic diversity of its faculty. A draft will be reviewed by the Office of Diversity, and a copy of the final self-study report will be delivered to the Union. During the first semester of the agreement, the university will provide the Diversity council with data that represents the 2016/17 faculty in terms of racial/ethnic and gender diversity, to serve as a general baseline for the self-study.

ARTICLE 8 – ACADEMIC FREEDOM AND PROFESSIONAL ETHICS

As described in Appendix A and B (Appendix A – AAUP Statement on Academic Freedom and Appendix B – AAUP Statement on Professional Ethics), faculty are entitled to full academic freedom, including freedom of research and expression.

Faculty shall enjoy the same rights and obligations of academic freedom and professional ethics as faculty, generally in US private universities.

When faculty employees express themselves as citizens, they should be free from institutional censorship or discipline.

Standards of faculty members' professional ethics and their teaching responsibilities include that they—and the Union—do not involve University students and prospective students in labor or employment disagreements between Administration and faculty members or their union. The CBA provides orderly methods of handling all matters through channels such as Joint Labor-Management Committee, Faculty Advisory Committees, and the Grievance-Arbitration process. These are important obligations.

ARTICLE 9 – GRIEVANCE AND ARBITRATION

The grievance procedure is the exclusive means for the resolution of all disputes between the Union and the University. The procedure is also the exclusive means for the resolution of claims by faculty member that the University has violated a provision(s) of the Agreement and by the University that the Union has violated a provision of the Agreement.

A. Definition-Grievance

A faculty member grievance is a claim by faculty member(s) that the University has violated term(s) of the Agreement with respect to their employment. The parties discourage trivial claims.

A union grievance is a claim by a unit representative or the Union, that the University violated provision(s) of the Agreement with respect to the employment of faculty members or the rights of the Union. A union grievance will be filed only by designated unit representatives or Union representative. At the start of each academic year, the Union shall provide the Associate Provost of the University with a list of authorized unit representatives, and update the list within five business days of any change.

A University grievance is a claim by the Provost or his designee, that the Union has violated a provision(s) of the Agreement that sets forth its obligations to the University.

Any reference in this Article to “days” shall mean calendar days, unless otherwise specified.

B. Procedures for Grievance

A unit representative may be present in any scheduled meetings with the faculty member with regard to a grievance filed under this article.

Grievances shall be submitted via email within the applicable time frame to the associate provost at the email address they have designated for this purpose.

A grievance should contain the name(s) of the grievant(s), the program, the date the grievance arose, the nature of the grievance, the provisions of the Agreement violated, and the remedy sought.

In all cases the grievance shall be submitted no later than 14 days after the grievant or union was aware that the violation occurred. Failure to respond to the grievance within the time limit set forth herein shall entitle the grievant to proceed to the next step, and the grievance shall be deemed to have been rejected as of the last day of the period for response. Any time limits set forth in this Article may be extended by mutual agreement, which shall not be unreasonably withheld. Should the Union submit a request for information pertinent to a particular grievance, the days falling between the Union’s request and the University’s response to that request will not be counted against said grievance’s time limits.

Faculty members and the Union shall make an effort to resolve grievances informally with the University. If a problem cannot be resolved through informal discussion with an immediate supervisor, a grievance shall be processed as follows, except that grievances based upon a

suspension or discharge, or those initiated by a Union representative, shall start directly at Step 2 below.

Step One:

Faculty member and Union grievances will be filed with the associate provost via email with "FACULTY GRIEVANCE" in the subject line. The associate provost will respond within thirty (30) days after the grievance was filed.

Step Two:

If the grievance is not settled at Step One, the Union may advance the grievance to step 2 within 14 days. The step 2 notice will be filed with the University associate provost. The associate provost will schedule a grievance meeting within fourteen (14) days after the grievance has been filed at step- 2. The associate provost will respond to the grievance within fourteen days after the grievance meeting.

Step Three-Arbitration

If the grievance is not settled at Step 2, within 14 days after the Step 2 response, the grievant may advance the grievance to arbitration with written notice to the Union, the University Provost, and the University Associate Provost.

When a party has requested arbitration in a timely manner, the Union and the College shall mutually select an arbitrator from the following list, by striking alternately from this list, the initiating party striking first:

Andria Knapp
Barry Winograd
Norman Brand

The Arbitrator shall be requested to render a decision within thirty (30) days of the hearing or receipt of the transcript or the briefs, which is later.

Prior to the hearing, the parties shall attempt to reach agreement on a joint submission of the issue to be presented to the arbitrator. The decision of the Arbitrator shall be final and binding on the parties and the affected faculty member.

The hearing shall be scheduled so that faculty member needed to testify does not miss scheduled teaching.

Each party shall bear the expense of preparing and presenting its own case. The costs of the arbitration proceedings, including compensation, fees and expenses of the Arbitrator, and the cost of any hearing transcript, shall be borne equally by the University and the Union.

The Arbitrator shall have no power to add to, subtract from, alter, modify or amend any of the terms or provisions of this Agreement.

Prior to arbitration, the parties may mutually agree to attempt to mediate the grievance using Federal Mediation and Conciliation Services.

**ARTICLE 10 – FACULTY ADVISORY COMMITTEES AND JOINT LABOR
MANAGEMENT COMMITTEE**

A. General

The Union and the University will jointly maintain four faculty advisory committees, three with full-time and part-time faculty representation from the two schools and College, and one with full-time faculty representation from the two schools and College.

The University, in its discretion, may convene additional committees that include faculty participation. If other committees are convened, the Administration will define the charge, responsibilities, and composition of that committee prior to the designation of faculty representatives.

The Union and the University will jointly maintain the Joint Labor Management Committee as provided below in this Article. The Union and the University will discuss and respond to each other's recommendations on topics of mutual interest and concern on subjects that are not within the scope of the faculty advisory committees.

By the Joint Labor Management Committee and Faculty Advisory Committees, the Union and the University implement shared governance.

B. Faculty Advisory Committees

The four faculty advisory committees are:

- o Curriculum Committee
- o Academic Standards Committee
- o Faculty Professional Development Committee
- o Committee on Rank and Tenure (Full-time faculty only)

1. Committee membership

Committee membership operates as follows: The Union will identify in a letter to the Provost, faculty members from the two schools and College to serve on each committee. An individual faculty member shall not serve on a committee for more than two consecutive years, except Rank and Tenure where faculty may serve for no more than three consecutive years and where staggered terms are arranged.

Each academic year, the Provost will convene each committee by letter of appointment to its members. No faculty members may be designated to serve on two advisory committees until each full-time faculty member has been offered the opportunity to serve on such committee. For full-time faculty, performance of committee service in a timely and productive manner counts toward service requirements, as stated elsewhere in the Agreement. If the Provost determines that a committee member(s) is not performing committee service in a timely and productive manner, following written notice and opportunity for correction, the Provost may determine that the committee service does

not qualify to fulfill the requirements and prescribe fair alternative assignment. Deans and/or Associate Provost attend ex officio

2. Responsibilities of the committees

Curriculum Committee: 4 members, 3 full-time faculty (1 from each school and College), and 1 part-time faculty at large, The Curriculum Committee advises the Administration on implementing the curricular goals of the University. The committee advises on pending decisions that may cause impact on the curriculum and/or the educational aims of the University. The Curriculum Committee advises on policies and requirements for general education and for baccalaureate and graduate degrees; on all academic majors and programs (including concentrations, certificates, and all other academic programs); on the quality of the curriculum; and on specific changes in curriculum.

Standards Committee: 3 members, two full-time faculty and one part-time faculty, 1 from each school and College. Committee advises on student academic standards and policies regarding admission, retention, probation, dismissal, and readmission. Committee members will hear and make recommendations on appeal cases concerning admission, probation, dismissal, and readmission of students, unless the Administration determines that a decision without committee review is feasible due to simplicity of issues.

Faculty Development Committee: 3 members, two full-time faculty and one part-time faculty, 1 from each school and College. The purpose of the Committee is to promote the use of resources inside and outside the University to foster both teaching effectiveness and academic scholarship. Committee members will make recommendations regarding University grants and seed money for faculty use in development of curriculum and pedagogy, scholarly research, and travel.

Rank and Tenure Committee: 5 full-time faculty members, with at least one from each school and College. Rank and Tenure makes recommendations to the Provost concerning personnel actions such as promotion in rank, advancement to tenure, and the granting of sabbaticals. As part of this process, the committee reviews and evaluates faculty portfolios and sabbatical proposals and provides recommendations for promotion and/or tenure and sabbatical leave. The committee provides feedback for third-year review candidates before they apply for either promotion or tenure. The committee also makes recommendations for appointment of full-time faculty as Professor Emeritus/Emerita and part-time faculty as Senior Lecturer. A majority vote is used in the recommendation-making process.

C. Joint Labor Management Committee

During the term of this Agreement, representatives of the Union and of the University shall meet in person as the Joint Labor- Management Committee for the purpose of:

- o Providing the input of the faculty to the Administration on University-wide matters of importance to faculty members;
- o establishing and maintaining effective and cordial labor relations;
- o exchanging information; and
- o resolving disagreements and preventing disagreements.

Prior to the start of each academic year, the Union and the University shall exchange in writing the names and the University employment positions, not more than six persons who for the academic year, will represent the Union and the University respectively. The Union and the University shall also specify in writing which of the University employees shall serve as its Co-Chair; respectively. The Union shall notify the University of up to three part-time faculty and up to three full-time faculty members to represent the Union on the committee.

Each Co-Chair will submit to the other, a proposed agenda at least two weeks in advance of meetings. The Co-Chairs will confer to attempt to agree on the agenda for the meeting. Possible agreed-upon agenda, items may be:

- (1) Identification and discussion of grievances that have been processed in full, but remained unresolved;
- (2) Opportunity for Local 1021 to provide the input of the faculty to the Administration on University-wide matters of importance to faculty members;
- (3) Opportunity for attendees to develop working professional relationships within the Joint Committee; and
- (4) Other matters agreed by the Co-Chairs to be on the agenda.

The Co-Chairs will agree upon meetings to be held at least 4 times each academic year, 2 times each semester, for up to two hours and, if the Co-Chairs mutually agree, for an additional hour. If the Co-Chairs mutually agree, up to two additional meetings per academic year and one meeting in summer, may be held to discuss a specific agreed upon topic of importance.

ARTICLE 11 – LEAVE FOR UNION BUSINESS

Union leave shall be governed by the provisions set out below:

Upon the request of SEIU with at least one semester advance notice (or less notice if mutually agreeable), the University shall grant in a timely manner union leave without loss of job security or status to one full-time and one part-time member. Such leaves shall be granted for one semester per academic year. During this semester the faculty member shall be compensated by the Union, not by the University. While on a Union leave of absence, the faculty member shall be eligible for continued, if a University care benefits for no more than six months (Cobra after three months), if the faculty member pays all the benefit premiums and if the plan allows for participation while on an unpaid leave of absence.

A faculty member who is on union leave shall have the right to return to her/his pre-existing part-time status upon expiration of the leave. Such leave shall not constitute a break in the faculty member's cumulative service.

ARTICLE 12 – NEW FACULTY UNION ORIENTATION

When NDNU schedules new employee orientations on a per semester basis, the new bargaining unit members hired in the current semester will be invited. They will include information on benefits and eligibility. Union representatives shall have at least thirty (30) minutes at the end of each new faculty orientation to meet with incoming faculty. The University will provide the Union with thirty days' notice of the meeting time, and a list of the newly-hired bargaining unit members and their departments.

ARTICLE 13 – JUST CAUSE, DISCIPLINE, PERSONNEL FILES

A. Just Cause, Discipline & Discharge

Discipline and discharge of faculty members who are not in probationary status will be for just cause.

For purposes of this Agreement, part-time faculty are considered probationary until they have successfully completed the teaching of one or more courses in two different semesters.

Any complaint made against any faculty member will be promptly called to the attention of the faculty member if the University reasonably anticipates taking disciplinary or termination action on the basis of that complaint. The purpose of this provision is to ensure that faculty members are notified of concerns in a timely manner.

B. Personnel Files

Faculty shall have access to the personnel files maintained by the University.

Faculty may review their personnel files by appointment with Human Resources or their Dean's Office with ten (10) business days' written notice and may make copies of any non-confidential documents contained within the personnel file(s).

Faculty have the right to respond in writing to any document that is placed in their files identified in this Section.

ARTICLE 14 – POSITION POSTING AND FILLING OF VACANCIES

All vacant full-time bargaining unit positions will be posted on the NDNU website for a minimum of 14 days. Internal candidates who apply and are qualified will be given a personal interview and thoughtful consideration.

ARTICLE 15 – BASE SALARIES

1. The Full-Time and Part-Time salary scales will increase as follows:

Effective August 15, 2017,	Four (4) %
Effective August 15, 2018,	Two (2) %
Effective August 15, 2019,	Two (2) %



2. PT faculty Step 6 (new Step 3) rate and Senior Lecturer rate to increase additionally on August 15, 2017 by 1.5 % and on August 15, 2019 by 2.0%.
3. FT Instructor rate and FT Step 4 rate and Step 5 rate for Assistant Professor to increase additionally on August 15, 2017 by 1.5%.
4. All PT faculty already on Step 1, 2 or 3 as of August 15, 2017 will move to PT Step 4 (new Step 1) on August 15, 2017.
5. All PT faculty already on Step 4 as of August 15, 2017 move to PT Step 5 (new Step 2) on August 15, 2017.
6. All PT faculty already on Step 5 as of August 15, 2017 move to PT Step 6 (new Step 3) on August 15, 2017.
7. PT Step advancement after August 15, 2017 to be based on NDNU course units as per the below chart.
8. PT Steps 1-3 are abolished August 15, 2017
9. FT Assistant Professor Steps 1, 2 and 3 abolished August 15, 2017.
10. FT Steps and Step Advancement to otherwise remain as per current.
11. New Part-Time Scale:

Step	Units Taught at NDNU
Step 1	0-48
Step 2	49-60
Step 3	61+
Senior Lecturer	Application at 60 units for Senior Lecturer can be made

12. Step 3 can apply for promotion to Senior Lecturer after achieving 60 NDNU teaching units. The Joint Labor-Management Committee will confer on a revised application and on recommended standards for evaluation for promotion to Senior Lecturer consistent with Appendix F.
13. Senior Lecturer sabbatical. The Joint Labor-Management Committee will work to create a procedure for Senior Lecturer part-time faculty to apply to achieve sabbatical leave. The procedure will be based on *APPENDIX G – FACULTY DEVELOPMENT, LEAVES, AND BENEFITS POLICIES*, which affords Senior Lecturer part-time faculty this opportunity after 14 years of service, compensated at 6 units of pay. Anticipated issues to be discussed could include: the nature of any required portfolio, criteria for sabbatical project; years of service requirement, etc.

ARTICLE 16 – FACULTY DEVELOPMENT FUNDS

The University will provide a Faculty Development Fund of \$80,000 per year, to be expended for full-time and part-time bargaining unit faculty for any or all of the following purposes:

1. Faculty Development events on campus.
2. Faculty Research Grants.
3. Conferences.
4. Author's Retreat.
5. Faculty development courses offered annually on emerging technologies and pedagogies.

FULL-TIME FACULTY SECTION

ARTICLE 17 – HEALTH BENEFITS

The University will continue to provide health care benefits to full-time faculty. Benefits shall not be different than the health benefits provided to senior administrators.

ARTICLE 18 – RETIREMENT

A. Retirement Plan 403B contributions

The University will guarantee contributions to the discretionary 403b plan as follows:

Effective December 2018,	2.5% on the individual full-time faculty member's base salary earnings in the prior fiscal year.
Effective date, December 2019,	2.5% on the individual full-time faculty member's base salary earnings in the prior fiscal year.

For December 2017, and subsequent December during the term of the Agreement, the University's percentage rate of contributions shall not be less than the percentage rate of contributions for NDNU senior administrators, if any.

B. Voluntary Early Retirement Incentive

Tenured Faculty Age 65 with 12 years of Service-Application. Each tenured professor who is age 65 with 12 years or more years of University full time faculty service, may apply in writing during the term of the Agreement for voluntary early retirement incentive. In deciding in its discretion whether or not to grant the application, the University will consider the University finances, the existing and expected enrollments, the program needs and the desires of the applicant. The application will not be unreasonably denied; however, if the application is approved, the date of retirement may be set by the University beyond the date desired by the faculty member, due to the above considerations.

If approved by the University, the incentive payment will be the sum equal to the base salary earned during the academic year ending in the retirement. The payment will be made on regular pay dates in

equal amounts during the succeeding academic year unless a lump sum option is chosen to be paid. End of employment is August 14 of that same academic year. Any 403b contribution that is provided to active full time faculty in or about December of the year of termination will also be provided.

The University will thereafter have the option but not obligation to offer new employment to the retiree as a part-time faculty member on a per course basis and the retiree will have the option but not obligation to accept such offer.

The University will provide the Union with an application form to be used by faculty members who wish to apply. Upon request of Human Resources, this form will be provided to any eligible faculty member who expresses interest.

When the University and the faculty agree on the application, the final written agreement will be sent to the Union.

ARTICLE 19 – FACULTY WORKLOAD

A. General

The annual workload letter from the Provost to the faculty member states the specific assignments in the areas of teaching, service, any assignment as academic unit leader, and the expectation to engage in professional development and scholarship or creative projects. The annual workload letter will be sent to faculty by approximately May 31 and an update letter may be transmitted thereafter.

B. Teaching

The annual standard teaching work of all full-time faculty members is twenty-four (24) teaching units during nine months, and thirty-two (32) teaching units during twelve months. The University retains the discretion whether to define a faculty position as a 9-month, 12-month or some other length of position. The University retains the discretion whether to deny overload units of teaching to a faculty member who is not teaching the annual standard of teaching.

Twenty-four (24) teaching units typically consist of eight (8) three-credit courses during an academic year. Teaching units also include non-regular teaching assignments, including but not limited to courses with other credit values, laboratory units, music private lesson units, practice teaching supervision in the SEP and student mentoring and advising greater than the amount expected of full-time faculty. The Provost may assign teaching units such as new program development and other special teaching work. The amount of such non-regular units or associated supplemental compensation is stated in *Appendix C—Full Time Faculty Responsibilities*.

C. Professional Development and Scholarship or Creative Projects

Professional development refers to scholarship, research, and creative activities (in the case of artistic fields) which are pursued in order to maintain a high level of competence in a faculty member's field and related fields. Full-time faculty members are expected to demonstrate that they are meeting those expectations and the acquisition of ongoing intellectual knowledge of current academic development, activities, and trends in their fields to sustain and enrich their teaching and further the mission of the

university. *See Rank and Tenure criteria in Appendix F.* Faculty members will do so by the Annual Faculty Plan and Report as described in Appendix E.

D. Service

The annual workload letter assigns the following or its equivalent in service: one faculty advisory committee, Joint Labor-Management Committee, or other University committee; student mentoring and recruiting functions greater than the amount expected of all full-time faculty. In lieu of one or both of these service functions, the letter may assign other functions of service to the University, which may include creating new courses for delivery to students and other such assignments of an academic nature that are intended to create student tuition revenue.

E. Faculty Librarians

The annual standard workload for full-time faculty librarians, excluding the Director which is supervisory position outside the unit, include duties in the areas of reference consultation, instruction on information literacy and technology, collection development, assessment, and special projects as assigned. Librarians work on 10-month contracts, on pro-rated basis according to the full-time faculty salary scale.

F. Full-Time Non-Tenure Track (FTNTT)

Full-Time non-tenure track faculty members are not required to engage in non-teaching service to the University. They are eligible to receive professional development grants. After January 1, 2018, the Joint Labor-Management Committee may discuss providing opportunities for promotion for full-time non-tenure track faculty, as well as changing teaching load and/or service duties. Any such changes will take effect when the parties mutually agree on a Side Letter with a new definition of the FTNTT role.

ARTICLE 20 – FACULTY AS ACADEMIC UNIT LEADERS

The parties recognize that three schools (SBM, SEP and CAS) have diverse needs in respect to the nature, scope and equitable teaching or service release, for faculty member responsibilities for leadership of the particular academic units.

The Provost intends to bring to the Joint Labor Management Committee by approximately August 15, 2017, the future academic program organization within each school and CAS, including the number and configuration of each of the faculty academic unit(s) leader assignments. The Provost will provide draft descriptions (not including statutory supervisor duties) for each of the leader assignments and a proposed classification of each assignment as complex II, complex I, or non-complex.

Equitable release means that Complex II assignments will have six (6) course release units per year; complex I assignments will have three (3) course release units per year; and non-complex assignments will fulfill the annual service obligation. The Provost may, at his option, propose supplemental pay for a particular assignment. These definitions apply to nine-month programs, and will be prorated accordingly for twelve-month positions.

The charge of the Joint Labor Management Committee will be to review the job descriptions and determine each of the faculty academic unit(s) leader assignments as complex II, complex I, or non-complex.

If agreement is reached in Joint Labor Management Committee by October 15, 2017, the agreement will be placed in writing and executed as a Side Letter and take effect January 1, 2018. If agreement is not reached by October 15, 2017, the Provost will make a written determination that is equitable and reasonable, to take effect January 1, 2018 or on such as date thereafter as the Provost determines. The existing semester course release time for the faculty academic unit(s) leader assignments will remain until the effective date of the written determination of the Provost.

If the Union disagrees with the written determination of the Provost, within the time limits of the grievance procedure, the Union may refer the matter to the grievance-arbitration procedure with the following issue: "Is the Provost's determination equitable and reasonable? If not, the determination shall be changed to become equitable and reasonable."

ARTICLE 21 – LAYOFFS & SEVERANCE PAY

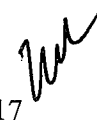
In the event the University decides to reduce, eliminate, transfer, or otherwise reorganize a program(s) that employs bargaining unit full-time faculty who will be permanently laid off, the University will give the Union ninety (90) days written notice of the effective date of the decision. The parties will meet in the Joint Labor Management Committee as soon as feasible to negotiate effects proposals. Layoffs will be implemented in reverse seniority order, provided the remaining full-time faculty members are equivalently qualified to teach the remaining and prospective courses.

Any laid-off full-time faculty member will receive an offer of severance pay equivalent to one month for each year of full-time NDNU faculty service, up to a maximum of 12 months.

If the faculty member declines severance pay, s/he will be eligible for part-time faculty status.

The parties agree that the sole remedy for disputes under this Article shall be the grievance procedure, thereby waiving NLRB jurisdiction.

"The CBA provision entitled 'No-Strike/No Lockout' is not suspended during Article 21 negotiations.



PART-TIME FACULTY SECTION

ARTICLE 22 – COURSE TEACHING APPOINTMENT

Course Teaching Appointment: A course teaching appointment arises when a written course teaching offer from the University Provost or Dean is signed by the part-time faculty member and electronically returned in a timely manner. The written course teaching offer will identify the assigned faculty member's name; the academic program of the course(s); the academic year and semester(s) of the course(s); and the compensation in dollars to be paid to the faculty member and starting in 2018, faculty's rank and step.

1. **Assignment: Preferred Hiring Pool Courses:** For courses regularly offered by the University to part-time faculty, the University will publish a preferred hiring pool (PHP) for each course for the next year it is scheduled. It will contain the names of part-time faculty members who have course seniority, who have successfully taught the course within the past four years. The PHP for the course will be posted on the part-time faculty portion of the University website, stating their names and their respective course seniority. The Dean will make offers to teach the courses to persons on the course PHP, except for bona fide academic reasons as approved by the Provost. "Regularly" is defined as courses offered twice in the last four years and at least twice by part-time faculty

If the University removes a faculty member from a course PHP, the University will give written notice to the faculty member and the Union, containing a statement of reasons. Except in egregious circumstances, part-time faculty will receive one month notice of the University's reasons to remove them from a course PHP, and will have an opportunity to address the concerns. Any information or complaint (including student evaluations) that is relied upon as the basis for a decision to remove a part-time faculty from a course PHP will be brought to their attention in a timely manner. A part-time faculty member removed from a course PHP will have access to the grievance procedure of the Agreement if the removal results in a loss of wages.

2. **Assignment: Non-PHP Courses.** The University appoints part-time faculty members on the basis of Article 25 Functions and Responsibilities of Part-time Faculty, and their course seniority. Course seniority is the number of times of completed delivery of that course at the University within the prior four academic years. The course assignment is made according to course seniority among qualified faculty. In the event of a tie in course seniority, the tie-breaker shall be date of hire in the University. The University will offer those courses with no incumbent faculty in order of seniority based on first date of hire with the University.

In making course teaching offers, the University does not consider whether the offer might give rise to eligibility of that faculty member for University health benefits. Part time faculty are limited to teaching of maximum of 22 units per academic year including summer.

3. **Notice and Reasons:** If the University offers a course (PHP or non-PHP) to a part-time faculty member who does not have the greatest course seniority, the University will give written notice to the faculty member(s) with greater course seniority. The notice will include

a statement of reasons for the University's decision, with copy to the Union. Disagreements may be resolved by the grievance procedure, if not resolved by informal discussion.

4. **Course Posting:** By March 2018 and March of each academic year, the University will post to a part-time faculty link to its website, a list of the courses that it intends to offer for the subsequent academic year. The University will make good faith efforts to post all courses to be offered and any error, omission or change of decision shall not constitute a violation of the Agreement.

Part-time faculty members must submit a statement of interest and qualifications, if they do not have course seniority, to the University within two weeks of the posting in order to be considered for courses.

Starting November 15, 2018 and continuing thereafter, the University will post on its website the courses for which it is recruiting part-time faculty. These course vacancies will be posted for a minimum of fourteen calendar days. Part-time faculty members who apply and are qualified in the judgment of the Provost/Dean, will be given thoughtful consideration ahead of external applicants.

5. **Course Teaching Dates and Cancellation Fees:** The University shall make best efforts to transmit course teaching appointment offers to part-time faculty members by the following dates. As the University improves its internal systems, the University will set earlier dates and notify the Union.

For Fall semester	July 31
For Spring semester	December 1
For Summer sessions	May 1

Exceptions to these dates are individualized teaching such as private music lessons, student-teaching supervision in School of Education and Psychology and other non-standard assignments that ordinarily do not begin at the start of the academic term.

Part-time faculty members will be paid a cancellation fee in lieu of the compensation whenever a course that is contracted for is thereafter cancelled. The cancellation fee schedule is set forth in the compensation section of this Agreement.

ARTICLE 23 – PROCESSING OF UNEMPLOYMENT INSURANCE CLAIMS

The University agrees that at the end of an academic term if not actively employed, and absent a reasonable assurance of future employment, faculty members may be eligible to apply for Unemployment Insurance benefits through California's Employment Development Department (EDD), subject to a determination of eligibility by EDD. The Union and the University agree that, as of 2015, the EDD uses the definition of "reasonable assurance" set forth in the California Superior Court's decision in *Cervisi et al v Unemployment Insurance Appeals Board*, as follows: "... under the statute, an assignment that is contingent on enrollment, funding or program changes is not 'reasonable assurance' of employment."

When the University receives written notice from EDD of a “Notice of Unemployment Insurance Claim Filed,” the University shall reply to the EDD in writing, indicating the date of the expiration of the most recent teaching term, unless there are other material facts that the University is legally required to report.

ARTICLE 24 – INSTRUCTIONAL SERVICES & MATERIALS

Part-time faculty members shall have access to computers with Internet access, wifi, printers, photocopying, and tech support from NDNU staff at IT in order to prepare for classes and serve students. Faculty members who teach evenings and weekends will have access to campus office facilities and tech support in order to prepare for classes.

Faculty members shall have access to appropriate space to meet with and advise students, including private space when necessary. This should not be construed, however, as requiring private offices for faculty members.

Access is subject to cooperation with NDNU’s procedures and policies that apply. Uses other than for NDNU activities are not permitted.

Prior to the summer 2017 term, a permanent secured central storage area or lockers will be provided for use of part-time faculty on the Belmont campus. Part-time faculty course teaching appointments will be augmented to identify private meeting space options on the Belmont campus.

ARTICLE 25 – FUNCTIONS AND RESPONSIBILITIES OF PART-TIME FACULTY MEMBERS

Part-time faculty are responsible to the Dean for the sound performance of their functions and responsibilities. Faculty members will abide by university policies.

The functions and responsibilities of each part-time faculty member are to retain competence in the faculty member’s field of expertise and to bring this expertise to bear on instruction of course content and achievement of student learning.

Faculty members will adhere to the course description and to the learning outcomes. They will provide timely submission of a detailed class syllabus that demonstrates the faculty member’s quality of compliance with all Learning Outcomes.

Faculty duties include attendance at new faculty orientation, if applicable, exclusive use of NDNU email addresses and servers for all email communications with students; timely and accurate submission of student midterm progress reports; timely and accurate submission of final course evaluations and grades; during the period of the course obligations, substantively responding to NDNU-related emails within 48 hours; and attending meetings related to course teaching obligations.

ARTICLE 26 – PART-TIME FACULTY SPECIAL COMPENSATION

Evaluation of Thesis, Capstone, or Portfolio

When approved in writing by the Dean, if a Faculty member fulfills the role of Second Reader of a Thesis, Capstone, or Portfolio Evaluation, and such work is beyond the scope of regular classroom responsibilities, the Faculty member will be paid \$300.

References for Students

When the assignment is made and approved in writing by the Dean, when a part-time faculty member writes a reference for a student who is no longer part of a class taught by that part-time faculty member, the part-time faculty member will be paid \$40. References written for students who are in a class taught by a part-time faculty member in that academic year are considered part of part-time faculty's regular work.

Independent Study Courses

When the assignment is made and approved in writing by the Dean, instruction in an Independent Study course will be paid \$500 per course.

Course Development

A. Traditional courses

When the assignment is made and approved in writing by the Dean, when a faculty member develops a new unit-qualified course that was not previously taught or held at the University, and upon the Dean's receipt and acceptance of a syllabus and the course as satisfactory, the faculty member will be paid a minimum of \$500 per unit.

B. Online Courses

When the assignment is made and approved in writing by the Dean, when a faculty member develops a new unit-qualified online course, and upon the Dean's receipt and acceptance of a syllabus and the course as satisfactory, the faculty member will be paid a minimum of \$500 per unit.

Participation in Mandatory University-sponsored activities and Professional Development

Participation (during the period of the course teaching appointment) in all mandatory non-teaching university-sponsored activities beyond the scope of teaching duties, such as, for example, mandatory trainings, institutional assessment, or mandatory course or departmental meetings (1 per semester), and participation by part-time faculty in activities such as retreats, workshops, seminars, symposia, and trainings pertaining to teaching and teaching effectiveness, will be paid for each semester's teaching contract, with a monetary stipend of \$150 for fall and spring contracts, only.

Committee Work

Part-time faculty members who serve on a faculty advisory committee, Joint Labor Management Committee or Union beginning with the 2016-2017 bargaining, will be paid \$1,500 per semester, upon the completion of the charged work of the committee after the semester ends.

Substitute Teaching

When the assignment is made and approved in writing by the Dean, part-time faculty may teach a class session for another faculty member at the University with the approval of the Dean of the department or program in which the course is being offered. The University will pay the substitute

part-time faculty \$80/hour for each hour of class instruction. This pay is intended to compensate for preparation time as well.

Instructional Materials

If a faculty member is authorized in writing in advance by the Dean to purchase supplies, materials and/ or software for a course, or must use supplies, materials and/ or software as a requirement of the job, he/she will be reimbursed in the month following submission of a receipt or other documentation of the expense.

Field Trips

When the assignment is made and approved in writing by the Dean, all proposed course-related field trips must abide by applicable guidelines and policies relating to such field trips. If a faculty member receives written authorization to cover the costs of the approved field trip or similar expenses, he/she will be reimbursed in the following month submission of a receipt or other documentation of the expense.

Mileage Reimbursement

School of Education supervisor travel

Supervisors will submit mileage sheets on the schedule determined by the Dean of a department. Mileage will be paid at a flat rate (established annually by the IRS) by check in the month following receipt of approved mileage sheets. Supervisors will submit one-time, round-trip mileage for each student being supervised at the beginning of a semester, and will be paid for each trip during the semester of supervision based on the mileage submitted.

Travel to Tracy campus for the University

Establish a flat per diem travel fee that is paid to all NDNU Belmont faculty who travel to teach at the Tracy campus.

Other Special Compensation

Within six months of ratification of this Agreement, the Joint Labor-Management Committee will meet to review any other non-teaching compensation practices by the University in order to achieve a schedule of rates and system of assignment, uniform to the School.

Course Cancellation Fee

If an accepted course teaching offer is withdrawn after it is contracted for, the part-time faculty member will be paid a \$250 fee within 30 days, provided an alternate course is not offered in the same academic term.

APPENDIX A

American Association of University Professors (AAUP) Statement on Academic Freedom

Academic freedom is a special freedom, necessary to the mission of professors in a university. Professional responsibility is its logical correlative. As individuals, professors have the responsibility to conduct themselves in ways that will promote the achievement of the purposes for which academic freedom exists. And as members of a profession possessed of certain rights of self-government, university professors as a group have an obligation to keep their house in order and to take such steps as may be necessary to the fulfillment of their professional mission.

The responsibilities of a faculty member fall into the following four main areas:

1. his or her subjects
2. his or her students
3. the institution of which he or she is a part
4. his or her profession and the community at large

The professor's primary responsibility is to his or her subject—to seek and to state the truth in that subject as he or she sees it. In carrying out this responsibility, it is the professor's duty to guard his or her freedom to inquire, not only against overt assault, but against any personal commitments on his or her part that are incompatible with that freedom. The preservation of the integrity and vitality of their subjects also requires professors to comment on the work of their colleagues and to advise their own or other universities about the appointment, retention, or promotion of individual scholars. It is self-evident that the scholar and teacher will best fulfill this responsibility by attempting, as far as it is humanly possible, to base his or her professional judgments of his or her colleagues exclusively upon their work and upon their contributions, actual or potential, to teaching and inquiry.

The professor's central responsibility to the students is to teach them his or her subject and to do so in accordance with the best standards of scholarship in his or her discipline. A primary duty of the professor with regard to his or her students, accordingly, is to keep abreast of developments in his or her field. A further obligation is to see that the process of teaching and learning is conducted in an atmosphere of free and unhampered inquiry. The professor has a responsibility to his or her students to entertain all relevant questions and to guard the classroom against external pressures, including the student's fear that what he or she does or says in the honest pursuit of intellectual inquiries will affect their rating within a course, future chances of employment, or later standing in the community.

The relationship between teacher and student also has dimensions that reach beyond the classroom. It is clearly incompatible with elementary standards of professional or personal behavior for the professor to use his or her relationship to his or her students to exploit them for his or her own private purposes. Beyond this, the professor is obviously one agent among others in the personal development of his or her students. He or she influences them not only through his or her subject but through his or her own personal deportment and intellectual style, and it is his or her responsibility to keep this consideration in mind. It cannot be a requirement of membership in the scholarly community, however, that the scholar give up legal rights or personal liberties normally enjoyed by other citizens. Any attempt to impose a uniform code of personal behavior on all members of the university faculties endangers the foundations of free scholarship.



It may be assumed that colleges and universities exist for the same purposes that professors exist—namely, the advancement of learning. Accordingly, the primary responsibility of a professor to the institution that employs him or her is that he or she fulfill his or her responsibilities to his or her own field of knowledge and to his or her students. Administrative work, curriculum studies, committee service, and the like are, however, reasonable parts of a professor's duties. It is a responsibility of the institution to see that these burdens do not fall so heavily on particular individuals that they find it difficult to meet their immediate obligations to their subjects or their students. It is equally a responsibility of the individual professor to see that he or she does not sacrifice any one major area of responsibility in an excessive concern with the others. In activities in which the professor engages outside the college or university, it is plainly his or her responsibility to make it plain, when circumstances require, that he or she is acting as an individual and not as a representative of his or her institution or of the scholarly profession. It is also his or her responsibility to measure the amount and character of such work as he or she may do outside the university in terms of his or her primary responsibility to his or her parent institution.

The professor's obligations to the community, like the professor's rights within the community, cannot be less than those of any responsible citizen. His or her responsibility both to his or her profession and to the outside community is plainly the fulfillment of his or her responsibilities to his or her subject, to his or her students, and to his or her parent institution. As a citizen and as a member of a profession that depends upon freedom for its health and integrity, furthermore, the individual scholar also has an obligation to maintain and advance the conditions of free inquiry. This obligation reaches beyond the classroom or laboratory.

A handwritten signature in black ink, consisting of several stylized, connected loops and lines, located in the bottom right corner of the page.

Appendix B
AAUP Statement on Professional Ethics

Professors, guided by a deep conviction of the worth and dignity of the advancement of knowledge, recognize the special responsibilities placed upon them. Their primary responsibility to their subject is to seek and to state the truth as they see it. To this end, professors devote their energies to developing and improving their scholarly competence. They accept the obligation to exercise critical self-discipline and judgment in using, extending, and transmitting knowledge. They practice intellectual honesty. Although professors may follow subsidiary interests, these interests must never seriously hamper or compromise their freedom of inquiry.

As teachers, professors encourage the free pursuit of learning in their students. They hold before them the best scholarly and ethical standards of their discipline. Professors demonstrate respect for students as individuals and adhere to their proper roles as intellectual guides and counselors. Professors make every reasonable effort to foster honest academic conduct and to ensure that their evaluations of students reflect each student's true merit. They respect the confidential nature of the relationship between professor and student. They avoid any exploitation, harassment, or discriminatory treatment of students. They acknowledge significant academic or scholarly assistance from them. They protect their academic freedom.

As colleagues, professors have obligations that derive from common membership in the community of scholars. Professors do not discriminate against or harass colleagues. They respect and defend the free inquiry of associates, even when it leads to findings and conclusions that differ from their own. Professors acknowledge academic debt and strive to be objective in their professional judgment of colleagues. Professors accept their share of faculty responsibilities for the governance of their institution.

As members of an academic institution, professors seek above all to be effective teachers and scholars. Although professors observe the stated regulations of the institution, provided the regulations do not contravene academic freedom, they maintain their right to criticize and seek revision. Professors give due regard to their paramount responsibilities within their institution in determining the amount and character of work done outside it. When considering the interruption or termination of their service, professors recognize the effect of their decision upon the program of the institution and give due notice of their intentions.

As members of their community, professors have the rights and obligations of other citizens. Professors measure the urgency of these obligations in the light of their responsibilities to their subject, to their students, to their profession, and to their institution. When they speak or act as private persons, they avoid creating the impression of speaking or acting for their college or university. As citizens engaged in a profession that depends upon freedom for its health and integrity, professors have a particular obligation to promote conditions of free inquiry and to further public understanding of academic freedom.



APPENDIX C – Full-Time Faculty Responsibilities

Teaching Responsibilities: Teaching responsibilities include acquiring and retaining subject matter expertise in the course content and pedagogy developing, publishing and delivering the course content to students with excellence, at all locations and in all modalities including traditional, intensive, on-line and hybrid; timely performing high quality evaluation and grading of student work; program assessment work; timely meeting all scheduled classes and meeting all posted office hours each workweek of at least one hour per week for every three teaching units, except for illness or personal emergency that is immediately reported to designated dean and to provide substitute learning to students; excellent and timely personal attention to University students and administrators, including meetings called by provost and deans and program directors; prompt response via NDNU email server to emails and other contacts from program directors, deans and the Office of the Provost (including during periods when not assigned to teaching responsibilities); and the mentoring and advising of students of the amount expected of full-time faculty.

Professional Development; Scholarship or Creative Work: This two-part category of work includes academic research and writing, both that intended and not intended for publication and, in the case of artistic professions, creation and production of artistic product for public events. It can also include creating new courses for delivery to students and other such assignments of an academic nature that are intended to create student tuition revenue, if not greater than the overall full-time faculty workload for all categories.

Appropriate types of this work vary from field to field. Activities which provide the necessary academic and other professional development include but are not limited to the following: conducting quality research; publishing and serving as academic reviewer of academic articles, texts, or books; performing or exhibiting creatively; participating in academic presentations, seminars, panels, or dialogues; serving meaningfully in academic or scholarly ways in professional organizations or learned societies; consulting to business, education, or governmental institutions and in clinical practice, in ways directly related to faculty obligations; and carrying out the academic and professional obligations of grants, fellowships; and post- doctoral educational programs. Faculty members are expected to demonstrate ongoing intellectual knowledge of current academic developments, activities, and trends in their fields in order to sustain and enrich their teaching and to further the mission of the University through continual discovery of its educational dimensions and its relevance to their disciplines.

Service Responsibilities: An important category of work of the full-time faculty member is service to the University. Service work can include assignment to one but not more faculty advisory committee; to student mentoring and recruiting functions no greater than that of the norm for full-time faculty; and to other functions of service to the University.

General Responsibilities: All full-time faculty members will attend and effectively participate in school and program activities and University-wide functions such as University Week (fall), Convocation (fall), Professional Development Day (spring), and Commencement (spring) and all events involving students in their programs and other functions related to the responsibilities of a full-time faculty member. Faculty shall exclusively use NDNU email addresses and servers for all email communications with current NDNU students; timely and accurate submission of student midterm progress reports; and timely and accurate submission of final course evaluations and grades. Approved

outside work shall not exceed the equivalent of one work day (eight hours) per five-day week. Faculty members will abide by university policies.

Strong faculty presence on the campus is required. During the period of their contractual agreement with the University, full-time faculty members may not engage in any activities that create conflicts of interest with their University obligations. Teaching by full-time faculty at other colleges and universities require advance University consent.

If the School Dean or the Provost is concerned about whether a faculty member is meeting the standards of this policy, the Dean will discuss this with the faculty member. If a satisfactory resolution cannot be reached, the Dean will advise the Provost of the problem and of the specific steps that have been taken in attempting to resolve the issue. Further attempts at resolution shall be at Joint Labor Management Committee and then the Provost will inform the faculty member of the final resolution.

APPENDIX D – FULL-TIME ADVISING AND NON-REGULAR COMPENSATION POLICIES

Advising

1. Faculty members who do not serve as academic unit leaders can be assigned to carry up to 15 advisees as part of their semester full-time responsibilities and NDNU base salary.
2. If the number of advisees that is assigned is 16-30, 1 release time unit may be granted per semester by the appropriate School Dean if written in the workload letter.
3. Faculty members who serve as academic unit leaders are expected to carry up to 15 advisees as part of each academic leadership unit granted; if the number of advisees is 16-30, one (1) course release unit may be granted per semester by the appropriate School Dean if written in the workload letter.
4. Mentoring of students taking courses is not academic advising.

Faculty Senate

Faculty Senate President and the other 3 Faculty Executive Committee positions fulfill their annual full-time faculty service requirement for 2017-18 only, ending May 2018 and are excused from and do not serve, on all other CBA committees for 2017-18.

Non-regular teaching compensation such as lab units, music private lessons, practice teaching supervision:

A “lab unit” is typically the equivalent of two-thirds of a lecture unit. A lab course meeting three hours per week would count as two units of a faculty member's teaching load. Lab units are used for science labs, mathematics labs, writing center classes, physical education courses, and continuing-education classes.

A “practice teaching supervision unit” for faculty is typically the equivalent of one lecture unit per two students supervised. Two students supervised for one semester would count as one unit of a faculty member's teaching load. Supervisors observe students a minimum of eight hours per semester in addition to meeting with students both individually and in groups for a minimum of four additional hours. Supervisors are expected to attend meetings in the School of Education and Psychology as needed and to write letters of recommendation for the student's personnel file. All full-time faculty members in the School of Education are required to supervise student teachers regularly, as mandated by the CCTC.

A “music private lesson unit” is typically the equivalent of two lecture units per three students taught. Three students each meeting one hour per week would count as two units of a faculty member's teaching load.

Effective in the first semester after ratification, the practice of Small Group Study generally will no longer be used, except for teach out of program.

The Dean may decide to hold a course with fewer than the required minimum threshold of students as a regular course. The University will pay \$2,500 supplemental compensation, to be stated in the workload letter, if voluntarily accepted. This does not count as part of normal workload.

Evaluation of Thesis, Capstone, or Portfolio

When the assignment is made and approved in writing by the Dean and placed in workload letter, if a faculty member fulfills the role of Second Reader of a Thesis, Capstone, or Portfolio Evaluation, and such work is beyond the scope of regular classroom responsibilities, the faculty will be paid \$300.

Independent Studies

When the assignment is made and approved in writing by the Dean, and placed in workload letter, instruction in an Independent Study course will be paid \$500 per course.

Course Development

Online Courses

When the assignment is made and approved in writing by the Dean, develops a new unit-qualified course that was not previously taught or held at the University, upon the Dean's receipt of a satisfactory syllabus, the Faculty member will be paid a minimum of \$500 per unit.

Instructional Materials

If a faculty member is authorized in writing in advance by the Dean to purchase supplies, materials, and/ or software for a course, or must use supplies, materials and/ or software as a requirement of the job, he/she will be reimbursed in the month following submission of a receipt or other documentation of the expense.

Field Trips

When approved in writing by the Dean, all proposed course-related field trips must abide by applicable guidelines and policies relating to such field trips. If a faculty member receives written authorization to cover the costs of the approved field trip or similar expenses, he/ she will be reimbursed in the month following submission of a receipt or other documentation of the expense.

Mileage Reimbursement

School of Education Supervisor Travel

Supervisors will submit mileage sheets on the schedule determined by the Dean of a department. Mileage will be paid at a flat rate (established annually by the IRS) by check in the month following receipt of approved mileage sheets. Supervisors will submit one-time, round-trip mileage for each student being supervised at the beginning of a semester, and will be paid for each trip during the semester of supervision based on the mileage submitted.

Travel to Tracy campus for the University

Establish a flat per diem travel fee that is paid to all NDNU Belmont faculty who travel to teach at the Tracy campus.

APPENDIX E – ANNUAL FACULTY PLAN AND REPORT

By May 31 of 2018 and each academic year thereafter, the faculty member will file with the dean, a written summary of the faculty member's professional development and scholarship or creative projects that was performed during the academic year. The summary shall describe the events, activities and projects of a professional and scholarly or artistic nature by which the faculty member has fulfilled the expectations stated in Article 19 of the Agreement. Sufficient detail and narrative shall be provided so that meaningful discussion and collaboration between the dean and faculty member may take place.

A handwritten signature in black ink, appearing to be the initials 'JW' or similar, located in the bottom right corner of the page.

**APPENDIX F - FACULTY PERFORMANCE, EVALUATION,
ADVANCEMENT AND OTHER POLICIES**

PART I – CONTRACTUAL POLICIES AND PROCEDURES

Part I contains the approved policies of Notre Dame de Namur University concerning the employment conditions of the faculty of the University. It is the section incorporated by reference into the course teaching appointments and annual workload letter of each faculty member. The provisions of this Appendix to the CBA are legally binding on all parties for the specific period covered by course teaching appointments and annual workload letter. Should there be any misapplication or misinterpretation of the specific provisions of this section, a faculty member, faculty administrator, or senior administrator may appeal the alleged misapplication or misinterpretation through use of the CBA grievance and appeal procedures.

I. Faculty Ranks and Titles

The faculty comprises all persons having appointment for instructional services to students. The faculty of Notre Dame de Namur consists of five distinct groups: ranked full-time, tenure track personnel, including both academic faculty and librarian faculty; part time faculty; special-appointment faculty, including adjunct core faculty, and faculty-in-residence; administrators with faculty rank; and faculty emeriti.

A. Ranked Full-Time Faculty

A ranked full-time faculty member is a full-time employee of Notre Dame de Namur University who has been assigned one of the academic faculty ranks (Assistant Professor, Associate Professor, or Professor) or librarian faculty ranks (Assistant Librarian, Associate Librarian, Librarian). The criteria for full-time teaching status are possessing rank and maintaining teaching units or librarianship duties, of at least fifty percent of the annual workload.

1. Definitions Related to Earned Degrees

a. A “recognized institution” is a university or college that is accredited by one of the six regional United States accrediting associations (e.g., Western Association of Schools and Colleges) or a university or college outside the United States that is a recognized institution of international standing.

b. A “terminal degree” is the highest degree awarded in a field in which the doctorate is not generally granted or required for promotion or tenure in institutions comparable with Notre Dame de Namur University. The addition or deletion of any terminal degree listed in this paragraph may be amended, effective the following fall semester, by the approval of (1) at least 50% of the full-time faculty in the departments; (2) the Committee on Rank and Tenure and (3) the President. The following degrees are presently recognized as terminal degrees for the relevant departments at Notre Dame de Namur University:

- (1) Master of Fine Arts in Art.
- (2) Master of Fine Arts in Theatre Arts.
- (3) a. Master of Arts in Art Therapy Psychology or b. Master of Arts in Marriage and Family Therapy and is a registered Art Therapist.

- (4) Master of Library Science or Master of Library and Information Science
- (5) Masters of Fine Arts -- Creative Writing
- (6) Masters of Music for Artist in Residence

2. Tenure Track, Ranked Full-time Faculty

Ranked full-time academic faculty members in a tenure track position must possess doctorates or terminal degrees from recognized institutions. Rank is based on academic degrees and experience according to the following criteria:

- a. Assistant Professor: An Assistant Professor must possess a doctorate or terminal degree from a recognized institution. The Assistant Professor must demonstrate teaching ability and promising scholarship, research, professional or creative activities, or other related experience, and must demonstrate potential to become a contributing member of the University community.
- b. Associate Professor: An Associate Professor must possess a doctorate or terminal degree from a recognized institution. The Associate Professor must be a challenging and successful teacher; conduct productive scholarship, research, professional or creative activities; contribute effective service to the University; promote the mission and values of the University; and demonstrate inclusive excellence.
- c. Professor: A Professor must possess a doctorate or terminal degree from a recognized institution. The Professor must demonstrate the ability to continue to serve as among the most outstanding of University teachers and among the most productive of University faculty members in scholarship, research, professional, or creative activities. The Professor must effectively and fully promote community engagement and leadership opportunities for students, perform effectively as a faculty administrator (if applicable); show strong faculty presence on campus; and contribute service in at least one of the following areas: academic mentoring recruitment and interaction, substitution for colleagues, or community involvement. Finally, the Professor must demonstrate engagement with the mission and values of the University and inclusive excellence.

Librarian Faculty Ranks

Ranked full-time librarian faculty members must possess master's degrees, doctorates, or terminal degrees from recognized institutions. Rank is based on academic degrees and experience according to the following criteria:

- a. Assistant Librarian (full-time)

Qualifications for the rank of full-time Assistant Librarian are: (1) possession of a master's degree in Library Science or Library and Information Science from a library school accredited by the American Library Association; (2) basic knowledge of library principles, practice and skills; (3) promise of performing professional level library responsibilities with potential for professional growth; and (4) ability to fulfill the requirements of the position assigned.

b. Associate Librarian (full-time)

Qualifications for the rank of full-time Associate Librarian are: (1) possession of a master's degree in Library Science or Library and Information Science from a library school accredited by the American Library Association; (2) five years full-time professional library experience at the rank of Assistant Librarian (or equivalent); (3) evidence of outstanding professional competence in one or more areas of academic assignment (reference, technical services, or collection management); and (4) service to the University or the profession or both.

c. Librarian

Qualifications for the rank of Librarian are: (1) possession of a master's degree in Library Science or Library and Information Science from a library school accredited by the American Library Association; (2) possession of a master's degree from a recognized institution in a subject discipline in addition to the MLS or MLIS; (3) five years full-time professional library experience at the level of Associate Librarian (or equivalent); (4) five years full-time experience in an administrative or managerial position; and (5) demonstrated leadership in the University, community or profession. The rank of Librarian is used for title position of Library Director.

B. Part-Time Faculty

A part-time faculty member is a part-time employee of the University who has been assigned one of the academic faculty titles (Lecturer or Senior Lecturer) or librarian faculty ranks (Assistant Librarian or Associate Librarian). Part-time faculty always receive term contracts and teach up to eleven units per semester but no more than 22 units per academic year. They receive limited fringe benefits and limited tuition remissions and do not accrue time toward tenure or promotion. Part-time faculty do not accrue time toward sabbatical leaves.

1. Academic Faculty Titles

a. Lecturer

- (1) Lecturers are hired to teach specific courses on a term contract basis.
- (2) Selection of Lecturers should be consistent with the academic standards of the University. A person assigned this title must meet or exceed the minimal requirements of a master's degree, teaching ability and promising scholarship, research, or creative activities. In lieu of these requirements for degree, teaching considerable experience in appropriate technical, artistic, or professional fields may be substituted.

Senior Lecturer

- (3) Senior Lecturer: This is a non-ranked, non-tenure position and is awarded only to long-term, part-time faculty members.

2. Librarian Faculty Ranks

a. Assistant Librarian (part-time)

- (1) Part-time Assistant Librarians receive prorated contracts dependent on the number of hours to be worked. This is a ranked, non-tenure position. Part-time Assistant Librarian term contracts may be renewed by mutual agreement between the University and the faculty member.
- (2) Selection of part-time Assistant Librarians should be consistent with the academic standards of the University. A person assigned this rank must meet or exceed the minimal requirements set forth for full-time Assistant Librarian.

b. Associate Librarian (part-time)

- (1) Part-time Associate Librarians receive prorated contracts dependent on the number of hours to be worked. This is a ranked, non-tenure position. Part-time Associate Librarian term contracts may be renewed by mutual agreement between the University and the faculty member.
- (2) Selection of part-time Associate Librarians should be consistent with the academic standards of the University. A person assigned this rank must meet or exceed the minimal requirements set forth for full-time Associate Librarian.

C. Special-Appointment Faculty

1. Full-time Non-Tenure Track

- a. The title of Assistant Professor, Associate Professor, or Professor may be assigned to individuals in full time non-tenure-track positions. Depending upon teaching experience and other qualifications, faculty may be hired on an annual basis in order to provide specific departmental needs, including teaching, advising and mentoring, program assessment, and curriculum development.

If s/he is the person hired for the position, his or her teaching experience at the University will be taken into consideration in determining placement at the time of hire. The non-tenure track, full-time ranked faculty member's contract may be for a nine-month or a twelve-month period, depending on the needs of the University.



FTNNTT faculty member is hired to teach on a term contract basis, up to a maximum of five years. Each contract of a FTNNTT faculty member will state the length of time remaining to be served by the faculty member before he or she reaches the end of the contract term. FTNNTT faculty term contracts may be renewed by mutual agreement between the University and the faculty member.

- b. Selection of FTNNTT faculty should be consistent with the academic standards of the University. A person assigned this title must meet or exceed the minimal requirements set forth. For Assistant Professor with regard to advanced preparation for or possession of a doctorate or terminal degree, teaching ability and promising scholarship, research, or creative activities. In lieu of these requirements -for degree, teaching, considerable experience in appropriate technical, artistic, or professional fields may be substituted.
- c. Written evaluation of FTNNTT Faculty will be conducted at the end of the first year of hire, based on classroom visits, course evaluations, and other criteria appropriate to the roles and responsibilities defined for the position at the time of hire. Thereafter, evaluation will occur in prior to renewal of the contract.

2. Core Faculty

- a. Core faculty are part-time faculty who receive an annual contract renewable by mutual agreement between the faculty member and the University. They teach a minimum of 18 units per year but no more than 22 units per academic year, and provide program consistency and excellence in teaching, create a fuller part-time faculty connection to the institution, take part in service opportunities, and meet specific department needs for committed faculty.
- b. The application to appoint a core faculty position will include the following:
 - Rationale for the appointment which includes both department needs and how the position will contribute to the overall needs and faculty profile of the University.
 - Nominated faculty resume, sample syllabi and course evaluations for the classes taught in the prior period of employment.
 - Projection of courses to be taught and other services to be rendered in the coming year.
 - Timeline for appointment, evaluation and reappointment processes.
 - Budget of additional costs to be incurred by the appointment.

- c. Selection of Core Faculty should be consistent with the academic standards for the University. Core Faculty will have the following qualifications:
 - Has taught prior classes with outstanding teaching evaluations.
 - Has a terminal degree or appropriate mix of academic and professional experience for the discipline and classes to be taught.
 - Is willing to commit to a long term, renewable contractual arrangement-two to three years, renewable annually upon mutual agreement.
 - Has maintained currency in field through professional/other activities.
 - Has demonstrated her/his commitment to the mission of the University.

- d. The Core Faculty contract will specify
 - The number of units and projected courses to be taught in the year.
 - Any additional responsibilities or activities for which units are to be given. The expectation that core faculty will contribute to the life of the University
 - beyond their teaching responsibilities.

- e. Evaluation of Core Faculty will proceed as follows
 - At least two months prior to the expiration of the contract, a formal evaluation of the Core Faculty will be based on the expectations set forth in the contract. This evaluation is expected to include observations of teaching, course evaluations and an assessment of contributions made to the life of the institution.

3. Faculty-In-Residence

Notre Dame de Namur University may appoint to the faculty distinguished artists, writers, poets, or scholars to the special faculty status of Artist-in-Residence, Writer-in-Residence, or Scholar-in-Residence. Such appointments may be on a part-time term contract basis or on a ranked, full-time basis.



4. Professor Emeritus or Professor Emerita

The rank of Professor Emeritus or Professor Emerita may be assigned to Associate Professors or Professors who have terminated their responsibilities as ranked full-time faculty members for valid reasons (e.g., retirement, illness) after ten or more years of distinguished service to the University. Under exceptional circumstances, long standing Assistant Professors may also be assigned the rank of Professor Emeritus or Professor Emerita. Approval of emeriti status rests with the President.

II. Faculty Search, Placement, and Appointment

The quality of initial faculty appointments is vital to the quality of teaching and scholarship to which the University is committed. The following policies and procedures for recruitment to the faculty are intended to aid all parties in making timely and effective initial appointments.

A. Full-Time Positions: Faculty Search

1. Faculty searches are initiated by dean's office and coordinated by the Program Director. .
2. The Program Director discusses personnel needs with all full-time faculty in the program, the School Dean, and the Provost. In consultation with the department faculty and the Dean, the Program Director develops a proposal including a rationale justifying the appointment and a tentative job description. The proposal is then submitted to the dean and Provost for budgetary approval of the appointment.
3. The Program Director forwards to the Human Resources Director the application materials received from all candidates who will not be considered as final candidates for the position. The Human Resources Director then notifies these candidates that their qualifications do not match the needs of the position.
4. The academic unit leader confirms that each final candidate has met University requirements for possessing a terminal degree from a recognized institution.
5. The academic unit leader invites final candidates to be interviewed on campus. If a candidate wishes to be interviewed, the Program Director mails the candidate a Faculty Experience Form and requests that it be completed and returned to the academic unit leader prior to the interview, along with a copy of a transcript or equivalent document showing the work leading to the applicant's most recent degree.
6. The final candidates are interviewed by the search committee.
 - a. When interviewing candidates, the search committee also guides the candidates in understanding the University's Mission Statement and the Catholic heritage and values of the institution, including diversity. The members of the search committee satisfy themselves that the candidates can support the Mission Statement to respect the Catholic character of the University in their teaching.



- b. The search committee may also ask the candidate to comment on his or his experience with the use and support of technology in teaching, and experience with community-based learning, with specific examples of each.
 - c. The search committee provides the candidates with general information regarding placement criteria, promotion and tenure procedures, salaries, and fringe benefits. However, no commitment, direct or implied, concerning hiring, placement, or salary can be made by any search committee or by any person in the University other than the President, the Provost, or a School Dean.
 - d. No commitment, direct or implied, concerning eventual promotion or tenure can be made by any search committee or by any person in the University.
7. When a decision has been made as to the final candidates, the Program Director sends in unranked order the names of the candidates and the application materials to the President, the Provost, and the School Dean.
 8. The Program Director in charge of the search process notifies the final candidates that they are being considered for the position and that the candidates are invited for a final interview with the faculty search team, the President, the Provost, and the School Dean. The Program Director, working with the Provost's office, schedules the interviews. Following the interviews, the will then meet with the Provost to merge the recommendations of the administrative and faculty search activities. The Provost makes the appointment offer on behalf of the University. If there is not consensus about the top candidate, the Provost meets with the search committee to explore ways to reconcile the difference of opinion.

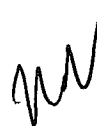
B. Part-Time Positions: Faculty Search

1. Faculty searches are initiated and coordinated by the appropriate Program Director in consultation with the School Dean.
2. Persons wishing to apply are asked to submit a letter of application and a professional resume to the Program Director by a given deadline. They are also informed that additional materials and 3 letters of recommendation will be needed if they are chosen as final candidates to be interviewed or if they are offered a position.
 - a. Applications from members of underrepresented groups are encouraged. Although the University is an independent Roman Catholic institution, it does not impose religious qualifications on its faculty. It accepts faculty members who are academically prepared demonstrate integrity of character, and meet its standards of teaching excellence.
3. The Program Director in charge of the search process confirms that each final candidate has met the institutional requirements for possessing a master's degree from a recognized institution. Final placement is the decision of the Provost and the Dean.

4. The Program Director invites final candidates to be interviewed on campus. If a candidate wishes to be interviewed, the Program Director mails the candidate a Faculty Experience Form and requests that it be completed and returned to the Program Director prior to the interview, along with a copy of a transcript or equivalent document showing the work leading to the applicant's most recent degree.
5. The final candidates are interviewed by the Program Director. The Program Director provides the candidates with general information regarding placement criteria, salaries, and fringe benefits.
 - a. When interviewing candidates, the Program Director also guides the candidates in understanding the University's Mission Statement and the Catholic heritage and values of the institution. The Program Director satisfies himself or herself that the candidates can support the Mission Statement and respect the Catholic character of the University in their teaching.
 - b. No commitment, direct or implied, concerning hiring, placement, or salary can be made by any search committee or by any person in the University other than the President, the Provost, and the School Deans.
6. When a decision has been made as to the highest-rated acceptable candidate, the Program Director sends application materials to the Dean, along with the recommendation that the University offer the position to the highest-rated candidate. The Program Director also prepares a Faculty Worksheet to accompany the candidate's file. If the Dean decides not to approve the hiring of the candidate, the Program Director then repeats the process described in this section with the next highest-rated candidate. If no acceptable candidate remains, the Program Director may then reopen the search.

C. Full-Time Positions: Faculty Placement and Appointment

1. Definitions Related to Placement
 - a. "Rank" for full-time faculty refers to a relative standing for full-time teaching and is based on academic degrees and experience. The administrator charged with the placement of a prospective faculty member will consider previous teaching and other relevant experience as the basis for determining years of credit toward initial promotion and advancement to tenure, if appropriate. While other factors may enter into the determination of initial placement, teaching experience at the college and/ or university level will be evaluated on the basis of each 24 units (or fraction thereof) as the equivalent of one year of credit on the placement scale. Initial placement will be communicated in writing to the prospective faculty member at the time of hire, as well as the date of eligibility for the first advancement evaluation.



- b. "Grade" for full-time faculty refers to the number of years of service in the current rank, including the current year plus any years granted by the appropriate School Dean at time of hire as described in above. Initial grade is assigned by the Dean, depending upon academic degrees and previous relevant experience.
 - c. "Step" on the full-time faculty salary scale refers to a relative standing for full-time teaching and is based on the number of years of full-time (FT) teaching or of full-time equivalent (FTE) teaching at the college and/ or university level. In special cases, significant experience closely related to the teaching field may be used by the Dean in calculating FTE. Full-time faculty at the top step in a rank remain at that step until promoted to the next rank.
2. After receiving an applicant's file and final approval from the President, the Provost authorizes the School Dean to hire the candidate. The Dean completes an Initial Placement Worksheet for the candidate. The Initial Placement Worksheet details the University's rationale for a proposed placement, along with any concerns regarding prior academic degrees or experience which, in the hiring administrator's opinion, might impact future advancement at the University. Full-time rank, grade, and agreement and may not be changed later except by mutual agreement between the Dean, the Provost, and the faculty member.
 3. The Dean forwards the completed Initial Placement Worksheet to the Human Resources Director along with authorization to offer the position to the candidate. Final authority to hire and retain faculty members is vested in the President. This authority is customarily exercised through the Provost by procedures established to assure adequate consultation with the faculty and full compliance with human rights norms.
 4. After receiving the candidate's memo of acceptance, the Human Resources Director notifies the Program Director, who then notifies all other final candidates that the position has been filled.

D. Part-Time Positions: Faculty Placement and Appointment

1. Definition Related to Placement

"Step" on the part-time salary scale refers to a relative standing for part-time teaching and is based on the number of years of full-time (FT) college teaching or of full-time equivalent (FTE) college teaching either after receiving a master's degree or after receiving a doctorate or terminal degree. In special cases, significant experience closely related to the teaching field may be used by the Dean in calculating FTE.

2. After receiving an applicant's file and within three working days of approving the hiring of the candidate, sends a notice to the candidate that the following will need to be received by the before a letter of appointment and final contract can be issued:

- a. For all applicants, an official transcript or equivalent document showing the work leading to the applicant's most recent degree, mailed by the institution's registrar directly to the [or delivered by the applicant in a sealed envelope from the registrar], which will be forwarded by the to the Human Resources Director.
 - b. three letters of recommendation from professional colleagues not employed by Notre Dame de Namur University.
3. After receiving the candidate's official transcript or equivalent document and three letters of recommendation, sends the candidate's completed file to the School Dean. Part-time level is set by the Dean at the time of appointment and may not be changed later except by mutual agreement between the Dean and the faculty member. The Dean signs the Faculty Contract Worksheet and authorizes the issuance of a letter of appointment and final contract.
 4. If a candidate does not accept the offer of a position or does not produce the documents necessary to complete a placement file, they will be so notified by the School Dean. The Program Director may then return to any appropriate step in the search process.

PART II – FACULTY PERFORMANCE, EVALUATION, AND ADVANCEMENT

I. Criteria for Faculty Performance

A. An Overview of Faculty Performance Policies

1. Membership in the academic profession carries with it individualized responsibilities for the advancement of knowledge, the intellectual growth of students, and the improvement of society. Faculty members must order and evaluate their activities in terms of their commitment to these goals, as well as in terms of their own professional development. Moreover, the performance of each faculty member should demonstrate her/his special obligation to understand and implement the nature of this institution of higher learning and its unique characteristics, philosophy and objectives, Mission and educational visions. Faculty member's performance should reflect the commitment to the contents of the mission and educational visions and to the improvement of its intellectual and practical effectiveness.

2. Each faculty member is responsible for carrying out in a fully effective and timely manner all of the duties and responsibilities agreed to in the individual faculty assignment. This responsibility includes the delivery of one's primary professional time, energy and talent to improve one's teaching performance, scholarly and professional achievements and to serve the University in its Mission and educational vision.

3. At Notre Dame de Namur University, a full-time or part-time faculty member's first and paramount responsibility is teaching effectiveness. In addition, a full-time faculty member's important obligations include scholarly and other professional achievements inclusive of research or creative activities. A full-time faculty member must also demonstrate potential for ongoing service to the University by participation in such activities as academic mentoring and advising and faculty

administration (if applicable), student recruitment and interaction, substitution for colleagues, and community involvement. Finally, a full-time faculty member must promote the mission and values of the University and demonstrate inclusive excellence. These various areas of responsibility are examined both when evaluating ongoing performance and when judging candidacies for promotion or tenure. The following statements outline in a general way the criteria by which faculty performance is measured.

B. Criterion 1: Teaching Effectiveness

1. Teaching effectiveness refers to command of the field of specialization as well as a broad knowledge of allied disciplines and general interest in the liberal arts or professional training; growth in scholarship and in use of new teaching techniques; presentation of material to students in scholarly, stimulating, and interesting fashion; and counseling and inspiration of students, thereby challenging and attracting them to become genuinely and ethically involved in their own education as evidenced by greater achievement, individual initiative, and independent thinking.

2. Full-time and part-time faculty members are expected to conduct their classes and other elements of the course at a skill and quality level appropriate to the level of the assigned course. Each teacher is responsible for planning and presenting the assigned course material; establishing course objectives and requirements and making them known to students in course syllabi and subsequent assignments; selecting and ordering texts and supplemental materials; making both formative and summative evaluations of student learning; preparing, administering) and grading papers, examinations, projects and community service work including developing placements for students in local community agencies and/or organizations, and assigning grades in an accurate and timely manner program assessment. Many characteristics contribute to teaching effectiveness. They include, but are not limited to, the following:

- effective contribution to students' intellectual/creative development, e.g., syllabi) independent study, artistic performance, recent graduates' records of study, performance of work
- activities related to the quality of teaching
- command of one's subject
- knowledge of the relationship of one's discipline to the liberal arts traditions and professions
- knowledge of current developments in one's discipline and pedagogy
- ability to relate one's subject to other areas of knowledge
- skill in communicating with students;
- ability to plan and execute a substantive, well-organized course
- ability to stimulate and broaden student interest in the subject matter
- ability to utilize effective teaching methods and strategies
- integrity, open-mindedness and objectivity in teaching
- receptivity to, and implementation of the result of constructive criticism, e.g., working in the context of the program

3. Documentation of teaching effectiveness must include the following evidence:

- evaluations by dean based on classroom observations
- course syllabi
- peer evaluations based on classroom observations
- student evaluations

Documentation may also include, but is not limited to the following evidence:

- evidence of student work, including written work and artistic performances
- further course work or other continuing education in one's field
- participation in seminars and/or workshops on curriculum and instruction

C. Criterion 2: Professional Development and Scholarly and Creative Activity

1. Professional development refers to scholarship, research, and professional or creative activities that are pursued in order to maintain a high level of competence in a faculty member's field and related fields. Full-time faculty members are expected to demonstrate ongoing intellectual knowledge of current academic developments, activities, and trends in their fields in order to sustain and enrich their teaching and to further the mission of the University through continual discovery of its educational dimensions and its relevance to their disciplines.

2. The University recognizes that appropriate types of professional development vary from field to field. Activities which provide the necessary academic and other professional growth and development include but are not limited to the following: conducting quality research; publishing and serving as academic reviewer of academic articles, texts, or books; performing or exhibiting creatively (in the case of the artistic fields); participating in academic presentations, seminars, panels, or dialogues; serving meaningfully in academic or scholarly ways in professional organizations or learned societies; consulting to business, education, or governmental institutions and in clinical practice, in ways directly related to faculty obligations; and carrying out the academic and professional obligations of grants, fellowships; and post-doctoral educational programs.

3. The primary responsibility of a full-time faculty member is to render to the University the most effective service possible and to devote his or her full working time to the institution. At the same time, consulting and other outside activities of a professional nature are looked upon favorably and encouraged by the University where such activities give the faculty member experience and knowledge valuable to professional growth and development and do not impede the fulfillment of a full-time commitment to the University. These activities may help the faculty make worthy contributions to knowledge, or contribute to their instructional programs, or otherwise make a positive contribution to the University or the community. While faculty are encouraged to engage in such activities, these activities must be clearly subordinate to the full-time faculty's teaching, advising, research, and service responsibilities. No outside service or enterprise, professional or other, should be undertaken that might interfere with the full-time faculty member's primary responsibility to the University.

4. Documentation of professional development includes, but is not limited to, the following:

- self-report of activities, with appropriate documentation and, where not self-evident, of time spent
- records of professional/ scholarly presentations to the University community

- records of attendance at professional conferences
- records of presentations at professional conferences
- evidence of election or appointment to a scholarly or professional post
- reviews of performances/ exhibitions/ written work/ professional products
- records of work submitted for publication or peer review
- records of publications
- records of submitted grant proposals
- records of fellowships, grants, or other recognitions
- testimony regarding the candidate's regional, national, or international reputation by professionals and colleagues outside the University
- award of fellowship, grants or other recognition
- election or appointment to a scholarly or professional post
- records of professional consulting to businesses/ agencies outside the University

D. Criterion 3: Service to the University and Campus Presence

1. Notre Dame de Namur University depends upon its faculty for services rendered outside the classroom. Therefore, faculty members are expected to participate in the operational concerns of the institution. Such participation may include, but is not limited to; academic advising and mentoring; student recruitment and interaction; substitution for colleagues; faculty administration (when applicable); and civic involvement. All faculty members are expected to maintain a strong presence on campus.
2. Campus presence. Strong faculty presence on this campus is required. Such on-campus presence is necessary for faculty activities beyond the classroom which include but are not limited to the following; faculty administration; academic mentoring and tutoring; student recruitment and interaction; participating in general institutional functions; participating in community-based learning and leadership development activities, advising student organizations; and participating in or supporting student cultural and athletic activities.
3. Full-time faculty members, individually and through committees, share responsibility for the governance of the University at various levels. This responsibility shall be exercised by regularly attending and taking part in meetings of the program, department, and school, and by being available for the work and institutional committees, councils, or other working groups.
4. Academic Mentoring: Since a fundamental objective of private institutions of higher education like Notre Dame de Namur University is to assist students to develop their interests in order to reach their full personal and professional potential, the University emphasizes the role of its faculty in the academic advising of students. All full-time faculty members should consider the mentoring of students in academic matters an essential function of academic duties, either formally as assigned program advisors or informally in conjunction with their teaching of courses.
5. Student Recruitment and Interaction: Full-time faculty members shall participate in student recruitment and interaction activities in ways appropriate to their programs. Activities may include but are not limited to the following; inviting visiting students, parents, or teachers into the classroom or laboratory; organizing or attending on-campus recruitment events; phoning or visiting prospective students; moderating

- student activities; tutoring students; and writing letters of recommendation or recruitment. academic unit leaders in some programs (Education, for example) interview all students who apply as stipulated by state accreditation requirements.
6. Substitution for Colleagues: No University procedures have been promulgated to determine the method for replacing faculty members or other events. Instead, as part of the teaching obligation, members of a department or program are expected to substitute temporarily for each other when appropriate.
 7. Faculty Administration (if applicable). Full-time faculty members at times also serve as Program Directors, and work with faculty, staff, and students to assure successful operations of their programs. Activities may include but are not limited to the following: increasing curriculum and teaching quality; coordinating program development; directing advising, testing, and recruitment; and fostering collegiality and program advocacy.
 8. Civic Involvement: After discharging their commitments to the University's own functions, full-time faculty members may apply their professional talents and unique capabilities in service to the community, state, or nation and the world. In doing so, however, faculty members must be clear that they do not thereby represent the University or their colleagues in these non- University activities. It is also the case that as to such non-University community involvement activities, the University does not direct the goals, manner or means of the faculty member's activities and therefore the faculty member and not the University is responsible for his/her actions.
 9. Demonstration of service activities includes, but is not limited to, the following evidence:
 - self-report of activities and, where not self-evident, of time spent
 - evaluation by dean or other senior administrator
 - evaluation by committee chairperson
 - letters of reference from organizations, student groups, individuals

E. Criterion 4: Engagement with the Mission of the University

1. Founded by the Sisters of Notre Dame de Namur, NDNU is rooted in the Catholic tradition. NDNU faculties, in their work with students, engage in supporting the mission, vision and core values of the University and the Hallmarks of a Notre Dame de Namur Learning Community. These values include learning through service and the promotion of social justice and global peace. As such the University values the application of faculty professional talents to a variety of activities which may include but are not limited to the following: acting as consultant, resource person, lecturer, and appointed or elected board member in political, religious, educational, professional, social, and charitable organizations. In addition the University values the creation, perpetuation and maintenance of Community engagement.

2. Demonstration of engagement with the Mission of the University includes, but is not limited to, the following evidence:

- evidence of involving students in community engagement activities
- evidence of the promotion of social justice/global peace in one's curriculum/instruction or in one's scholarly, research, or creative work
- record of participation in workshops or conferences specifically related to the mission, vision, and core values and Hallmarks of Notre Dame de Namur University

- record of service on committees or task forces charged with promoting the mission, vision, core values and Hallmarks of NDNU
- self-report of activities and, where not self-evident, of time spent
- evaluation by a dean or other senior administrator
- letters of reference from organizations, student groups, individuals, non-profit organizations
- record of serving as consultant or resource person or board member in related to NDNU mission.

F. Criterion 5: Inclusive Excellence

Central to the mission of NDNU is a commitment to diversity, whether by race, ethnicity, gender, sexual orientation, social economic background, or religious affiliation. Inclusive Excellence is a way of understanding diversity as contributing both to social justice and educational outcomes. In support of this commitment to diversity, faculty are expected to be intentional in their instruction and in their interaction with students to the principles of inclusiveness, as it is only through inclusiveness that we can be excellent as an educational institution.

Commitment to inclusive excellence can be demonstrated through a variety of activities. The following list includes possible examples and illustrative only:

- a. service on the Diversity Council
- b. mentoring of diverse students and/ or faculty
- c. demonstration of inclusion of diversity-related topics in curriculum (e.g. through syllabus)
- d. service as an advisor to an ethnic student club
- e. development and/or participation in co-curricular activities around inclusive excellence
- f. demonstration of professional development activities around inclusive excellence
- g. assistance in strengthening one's department/program for cultural competence
- h. research related to inclusive excellence
- i. offering community-based learning courses in diverse settings.

II. Faculty Evaluation

A. An Overview of Faculty Evaluation

1. The University conducts both formative and summative performance evaluations of all full-time and part-time faculty members as an integral part of assessing student learning and program effectiveness. Additional evaluations of full-time faculty are performed when in connection with a candidacy for promotion or tenure. The evaluations are intended to encourage continuing achievement, growth and/or improvement of the faculty member.
2. Evaluations are based on the following two questions: (1) To what extent has the faculty member met or exceeded performance expectations? (2) How can the faculty member continue and/or improve her/his performance or contributions to the University and what if any University support for that effort can be offered?

3. Faculty members must be able to demonstrate that they have satisfied the performance expectations by providing persuasive evidence relevant to each obligation and criterion.

B. Evaluations of Ranked Full-Time Faculty

1. Full-time faculty are expected to fulfill all relevant performance obligations.
2. Full-time faculty are expected to demonstrate continuing achievement and growth in the Criteria for Faculty Performance.
3. The Committee on Rank and Tenure evaluates ranked full-time tenure track faculty members for third year tenure track review, promotion, tenure, and emeriti status. The following procedures and timeline apply:
 - a. April of each year: It is the responsibility of the Chair of the Rank and Tenure Committee, in consultation with the Office of Human Resources and the Office of the Provost, to notify in writing those faculty members who are eligible by years of service for candidacy for third year review, promotion and/or tenure of their eligibility to apply, and invite them to an information forum with members of the Rank and Tenure Committee. Applicants are provided with a checklist of items to be included in the Portfolio, and any questions candidates have may be answered at this time, although the Chair and other members of the Committee are available at any time for consultation with candidates. Exemplar portfolios are available for review by the candidates in the Provost's Office.
 - b. By April 15th of each year, faculty who intend to apply for Sabbatical leave in the Fall of the next academic year for Fall or Spring of the subsequent academic year must submit a letter of intent to the Committee.
 - c. The deadlines for submission of applications is as follows:
 - (1) Sabbatical Leave: October 1st
 - (2) Promotion, Tenure: November 1st
 - (3) Third Year Review, November 15th
 - d. Applications are processed by the Committee in the following order:
 - (1) Sabbatical leave
 - (2) Promotion from Assistant Professor to Associate Professor
 - (3) Associate Professor to Full Professor
 - (4) Tenure
 - (5) Third Year Review
 - e. The recommendations of the Rank and Tenure Committee are forwarded to the Provost according to the timelines outlined in the following sections.

Faculty Advancement

C. An Overview of Faculty Advancement

1. Notre Dame de Namur University offers its faculty a variety of advancement processes. Ranked full time faculty members who demonstrate to the satisfaction of the Committee, the Provost and the President, in their judgment, the necessary levels of achievement and growth in the areas of important faculty performance, may be eligible for promotion and/or granting of tenure. Ranked part-time librarian faculty members who similarly demonstrate a continuing high level of achievement and growth progress may be eligible for promotion. For newer full-time faculty, a third year tenure, track review is conducted to assess faculty performance and input or feedback will be provided to the faculty member who later will be a candidate for future promotion and tenure.

Full-time faculty who have provided distinguished service to the University are eligible for consideration for merit appointments as Professor Emeriti after 10 years.

2. Evaluations are based on the following two questions: (1) To what extent has the faculty member met or exceeded performance expectations? (2) How can the faculty member continue and/or improve her/his performance or contributions to the University and what if any University support for that effort can be offered?
3. The candidate faculty member must be able to demonstrate to the satisfaction of the Committees, the Provost and the President, that in their respective judgments, the faculty member has met or exceeded the applicable performance expectations relevant to each obligation and criterion. The Committee on Rank and Tenure considers all requests for promotion, tenure, and merit appointment. Decisions on advancement are determined by the President after consideration of the recommendations of the Committee and of the Provost.
4. Based on documentation regarding length of service provided by the Human Resources Office to the Rank and Tenure Committee, faculty members who will be eligible for consideration for promotion will be notified by a letter from the Chair of the Rank and Tenure Committee by April 1 of the year preceding the evaluation process.

D. Promotion of Ranked Full-Time, Tenure Track Faculty

Promotion is not to be considered a right occurring automatically, but is based on merit. Routine performance, academic degrees, and length of service are not in themselves grounds for advancement in rank. Otherwise eligible full-time faculty who have demonstrated to the satisfaction of the peer committees a continuing high level of achievement and growth in the areas of important faculty performance, may be candidates for promotion in accordance with the following policies and procedures:

1. Promotion: Degree and Time Requirements

a. Faculty performance prior to coming to the University is the basis for decision to offer initial appointment; that performed subsequent to appointment at the University is the basis for evaluation for initial promotion. Performance subsequent to a previous promotion at the University is the basis for evaluation for the next promotion. A minimum of one year's work at the University must be completed before the faculty member will be eligible to apply for promotion. Faculty hired beginning in January of a given academic year, will be eligible for the first evaluation after a period of a year and eight months (fall semester in the second academic year after hire).

b. Faculty applicants for promotion must possess a doctorate or terminal degree from a recognized institution. The following degree and time requirements must be confirmed as accurate for candidacy for a promotion.

- (1) An Assistant Professor who possesses a doctorate or terminal degree from a recognized institution and who has completed four years of college teaching as Assistant Professor at the University (or the equivalent as determined in written notification by the appropriate School Dean at the time of hire, upon criteria set by the Committee on Rank and Tenure) may apply during the fifth year for promotion to Associate Professor. If granted, the promotion will become effective at the conclusion of the fifth year as Assistant Professor. Promotion to Associate Professor does not confer tenure.
- (2) An Associate Professor who possesses a doctorate or terminal degree from a recognized institution and who has completed four years of college teaching as Associate Professor at the University (or the equivalent as determined in written notification by the appropriate School Dean at the time of hire, upon criteria set by the Committee on Rank and Tenure) may apply during the fifth year for promotion to Professor. If granted, the promotion will become effective at the conclusion of the fifth year as Associate Professor. Promotion to Professor does not confer tenure.
- (3) An Assistant Librarian (full-time) who possesses a master's degree in Library Science or Library and Information Science from a library school accredited by the American Library Association and who has completed four years full-time professional library experience as Assistant Librarian at the University (or the equivalent as determined in written notification by the Provost) may apply during the fifth year for promotion to Associate Librarian (full-time). If granted, the promotion will become effective at the (conclusion of the fifth year as Assistant Librarian (full-time). Promotion to Associate Librarian does not confer tenure.

2. Promotion: Performance Requirements

a. An Assistant Professor applying for promotion to Associate Professor must demonstrate to the satisfaction of the Committee, Provost and President, that

their respective judgments, she/he has continuously served and will continue to serve as a successful teacher; conduct productive scholarship, research, or creative activities; promote community based learning and leadership opportunities for students; perform effectively as a Program Director (if applicable); show strong faculty presence on campus; contribute service to the University in at least one of the following areas: academic advising and mentoring student recruitment and interaction, substitution for colleagues, service learning, or community involvement; and generally demonstrate engagement with the Mission and educational visions of the University.

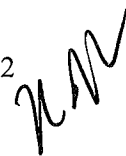
- b. An Associate Professor applying for promotion to Professor must demonstrate to the satisfaction of the Committee, Provost and President that in their respective judgments, she/he has continuously served and will continue to serve as an outstanding teacher; conduct productive scholarship, research, or creative activities; promote community based learning and leadership opportunities for students, perform effectively as a Program Director (if applicable); show strong faculty presence on campus; and contribute service to the University in at least one of the following areas: academic mentoring, student recruitment and interaction, substitution for colleagues, or community involvement, and generally demonstrate engagement with the Mission and educational visions of the University.
- c. An Assistant Librarian (full-time) applying for promotion to Associate Librarian (full-time) must demonstrate to the satisfaction of the Committee, Provost and President that in their respective judgments, she/he has continuously served and will continue to serve with outstanding professional competence in the important areas of academic assignment (reference, technical services, or collection management), as well as in service. Service may be evaluated in the context of the University and the profession.

3. Promotion: Preparation of Faculty Portfolio

- a. The candidate will prepare a faculty portfolio that will comprehensively and accurately document the candidate's performance over the years of evaluation and will show the nature of continuing achievement and growth. The evaluation file may ultimately include materials submitted not only by the candidate but also by peers, external commentators, university committees, Program Directors and senior administrators.
- b. The candidate will include the following materials in the portfolio:
 - (1) A narrative in which the faculty member addresses both past academic work inclusive of achievements and future intended areas of growth, making reference to the general Criteria for Faculty Performance and to the specific Performance Requirements for the position. The candidate may include materials in any scholarly format which provides evidence in a clear and coherent fashion suitable to professional examination and relevant to the criteria:
 - (a) Teaching Effectiveness
 - (b) Professional Development and Scholarly and Creative Activity

- (c) Service to the University and Campus Presence
 - (d) Engagement with the Mission of the University
 - (e) Inclusive Excellence
- (2) A current curriculum vitae.
 - (3) All syllabi for courses taught in the previous two years.
 - (4) End of semester student evaluations since the last appointment/promotion.
 - (5) A copy of the letter of evaluation from the candidate's Dean's office, directed and forwarded in the original to the Chair of Rank and Tenure, evaluating the individual's satisfaction of the Criteria for Faculty Performance, as made by means of class visitations, collegial discussions, consultations with peers, reviews of student evaluations and/or similar methods of evaluation. The letter should also assess the candidate's fulfillment of contractual obligations detailed under Faculty Workload and Expectations, including evidence of commitment to the Mission and visions of the institution.
 - (6) A letter of endorsement from one or more faculty peers chosen by the candidate, evaluating the individual's satisfaction of the Criteria for Faculty Performance, as made by means of class visitations, collegial discussions, and/or similar methods of evaluation.
- c. By November 1st preceding the fiscal year for which the candidate wants the advancement to become effective, he or she will deliver one copy of the faculty portfolio to the Chair of the Committee on Rank and Tenure.
 - d. By November 15, the Chair of the Committee on Rank and Tenure will notify the President, the Provost, the School Dean, and other relevant senior administrators of the names of faculty members who have submitted faculty portfolios. Senior administrators and Deans will be given the opportunity to submit additional letters or materials to the Chair of the Committee on Rank and Tenure. If the Chair receives any such letter or material, the Chair will immediately forward a copy to the candidate. The candidate may then submit a response, which must reach the Chair of the Committee on Rank and Tenure within 15 days after receipt or longer period as authorized by the Chair for good cause. The faculty member may also invite his or her School Dean to visit a class and submit a letter of evaluation on his or her behalf.
4. Promotion: Peer Review by the Committee on Rank and Tenure
- a. The Committee on Rank and Tenure will review the faculty portfolio.
 - b. If a member of the Committee on Rank and Tenure has written a letter as an Program Director or faculty peer to be included in a candidate's faculty portfolio, that member vote shall, with regard to the candidate's application recuse from deliberations.

- c. The Committee on Rank and Tenure will decide whether or not to recommend advancement. Majority vote is used in decision making; a tie vote results in an absence of recommendation either for or against the candidacy. Senior Administrators and Deans do not participate in deliberation regarding faculty advancement at meetings of the Committee on Rank and Tenure.
 - d. The Committee will send recommendations for advancement to the Provost, who will evaluate, comment and forward the Provost's recommendation to the President by February 1, along with the supporting faculty portfolio documentation and the Committee's recommendation and report, if any. If the Provost finds reason for not advancing the Committee's recommendation to the President, prior to transmittal to the President, the Provost will so inform the Committee and provide an opportunity to submit further information or comment in writing prior to the Provost's transmittal to the President.
 - e. A candidate who is not recommended for advancement by the Committee on Rank and Tenure will be notified within ten working days following the decision to not recommend. Such a decision shall be in writing and shall include the reasons for the decision. The faculty member may then request a further explanation or a hearing before the Committee on Rank and Tenure. If the faculty member is not satisfied, within a period of ten days (10) he or she may appeal the decision of the Committee not to recommend advancement through the appeal process of the CBA.
5. Promotion: Administrative Review by the President
- a. The President will review the Provost's recommendation by February 1, along with the supporting faculty portfolio documentation and the Committee's recommendation and report, if any. The President may further consult with the Provost, the appropriate School Dean, and in making his determination. The President will decide whether or not to grant advancement.
 - b. The President will report his decision regarding the advancement of faculty members to the Board of Trustees.
 - c. Faculty members who have been granted advancement will be notified in writing by the President by the appointment issuance deadline of May 31. The President will also notify the Chair of the Committee on Rank and Tenure of the final decisions regarding all recommendations which were made by the Committee. Advancement will be effective the following fiscal year.
 - d. A candidate who is denied advancement by the President will be notified within ten working days following the decision. Such a decision shall be in writing and shall include the reasons for the decision. The faculty member may then request a further explanation or a hearing before the President. If the faculty member is not satisfied, within a period of ten days he or she may file a grievance (CBA).



E. Promotion of Ranked Part-Time Librarian Faculty

Policies and procedures for promotion from the rank of Assistant Librarian (part-time) to Associate Librarian (part-time) are identical with those for promotion from the rank of Assistant Librarian (full-time) to Associate Librarian (full-time).

1. Tenure: Degree and Time Requirements

- a. The probationary period for candidacy for appointment for tenure begins with appointment to the rank of Assistant Professor or higher and should not ordinarily exceed six years of ranked full-time college teaching or librarianship, the last four years of which must be completed at Notre Dame de Namur University. [A tenured appointment may not be acquired on the basis of length of service with the University.] Assistant Professors are not eligible for tenure. If, on the basis of a favorable outcome of the Third Year Review process and evidence that they have fulfilled all criteria for advancement. They may be promoted to a higher rank at the end of the required years of service in that rank. However, the outcome of a Third Year Review shall not pre-determine the Committee on Rank and Tenure in its later evaluation of the candidate for subsequent candidacy for promotion or of tenure. If not promoted to a higher rank at the end of required years of service in those ranks, the faculty member is entitled to no further tenure-track contract beyond that of a terminal appointment for the following year.
- b. Tenure may not be granted to a faculty member who has not achieved the rank of Associate I, Professor or Associate Librarian and has not achieved completion of six years of ranked full-time college teaching or librarianship in one or more recognized institutions. However, the last four of those six years must have been in the employ of Notre Dame de Namur University as a ranked full-time tenure track faculty member. If granted, tenure will become effective after completing the sixth year of full-time service. Promotion to Associate Professor or Associate Librarian or Librarian does not confer tenure.
- c. Time on approved sabbatical leave will count as part of the time required for eligibility toward the granting of tenure, unless otherwise agreed in writing by the faculty member and the Provost. Time on an approved academic leave of absence of not more than one year may count as part of the time required for eligibility toward the granting of tenure if agreed in writing by the faculty member and the Provost.
- d. A request for an extension of the probationary period of one to two years may be presented in a timely manner to the Provost for exceptional circumstances such as extended personal medical disability, other qualifying conditions under the Family and Medical Leave Act, or assignment to a non-teaching role. As soon as it becomes apparent to a faculty member that he or she will need to request such an extension, the request must be made in the form of a letter to the Provost, with a copy to the Committee on Rank and Tenure, explaining the rationale and length of time required for the extension and shall include relevant physician or health care professional's letter of opinion. The faculty member shall not include any confidential medical information in the copy of the letter to the Committee. The request will be considered and acted

upon by the Provost, after conferral with the Committee. The faculty member requesting the extension will be notified by letter within ten days (10) following the date of the Provost's decision. The letter will specify the terms and conditions for the extension, if any.

- e. In cases in which tenure is not granted or in which annual contract on the basis of moratorium is not offered, the faculty member will be eligible for a terminal year of employment.
- f. Except under extraordinary circumstances to be determined and defined in writing by the University at the time of the hiring of a new full-time faculty member, advancement to the rank of Professor will not precede granting of tenure.

2. Tenure: Performance Requirements

Eligibility for an appointment to tenure requires review by the levels of Committees, Provost and the President and the academic judgment by the President that he/she has continuously served and will continue to serve as among the most outstanding of University teachers; among the most productive University faculty members in scholarship, research, or creative activities; effectively and fully promotes community based learning and leadership opportunities for students, perform effectively as a Program Director (if applicable); show strong faculty presence on campus; and contribute service to the University in at least one of the following areas: academic mentoring, student recruitment and interaction, substitution for colleagues, or community involvement, and generally demonstrate engagement with the Mission and educational visions of the University.

The candidate must provide persuasive evidence of significant involvement in the life of the University "beyond the classroom." The faculty member must also demonstrate ongoing intellectual responsibility toward current trends, activities, and developments in his or her field of specialization. Finally, the candidate must demonstrate a commitment to the University's Mission and vision statements.

3. Tenure: Preparation of Faculty Portfolio

- a. By April 1 of a full-time tenure track faculty member's fifth year of service with the University that counts toward eligibility for review for tenure at the University, the Committee on Rank and Tenure will notify each faculty member who is eligible to be considered for tenure based on evidence supplied by the Human Resources Office in the form of the initial placement at time of hire and/or the contract letter signed by the individual faculty member and the Provost at the time of the appointment to the tenure track position. The candidate will prepare a faculty portfolio that will comprehensively and accurately document the candidate's performance over the years of evaluation and will show the nature of continuing achievement and growth. The evaluation file may ultimately include materials submitted not only by the candidate but also by peers, external commentators, University committees, Program Directors, and senior administrators.

- b. The candidate will include in the portfolio the same categories of materials required for promotion applications. In addition, the candidate for tenure will also include the following materials in the portfolio:
 - (1) Letters from students, faculty, and staff members describing the candidate's involvement in the life of the University beyond the classroom.
 - (2) Examples by the candidate of ways in which the faculty member has demonstrated past, ongoing and expected future intellectual responsibility toward current trends, activities, and developments in his or her field of specialization.
 - (3) A statement by the candidate of ways in which the faculty member has incorporated the University's Mission and vision statements into his or her professional life both through service and in the classroom.
- c. By November 1 of the sixth year, the candidate will either deliver one copy of the faculty portfolio to the Chair of the Committee on Rank and Tenure or else request an extension by the Provost, in a letter to the Provost, with a copy to the Committee on Rank and Tenure, in a petition explaining the reason for the request and the length of time requested.
- d. By November 5, the Chair of the Committee on Rank and Tenure will notify the President, the Provost, the appropriate School Dean, of the names of faculty members who have submitted faculty portfolios. Senior administrators and Deans will be given the opportunity to submit additional letters or materials to the Chair of the Committee on Rank and Tenure. If the Chair receives any such letter or material, the Chair will immediately forward a copy to the candidate. The candidate may then submit a response, which must reach the Chair of the Committee on Rank and Tenure within 15 days after receipt or longer period as authorized by the Chair for good cause.
- e. The appropriate Dean is invited by the candidate to make a classroom visit and submit a letter of evaluation to the Committee on Rank and Tenure.

4. Tenure: Peer Review by the Committee on Rank and Tenure

Policies and procedures for tenure are identical with those for promotion, except that the Committee will send recommendations for advancement to the Provost by March 1.

F. Third Year Tenure Track Review of Ranked Full-Time Faculty

To help facilitate a faculty member's performance of her/his faculty duties, either the Dean and/or the Committee on Rank and Tenure, conducts a third year tenure track review. Its purpose is to give timely feedback and guidance to the individual faculty member, which the faculty member may choose to use to orient subsequent performance in a manner which may enhance her/his candidacy for promotion or tenure. Review takes place early in the third year of employment for all ranked full-time faculty members, with the exception of those applying for promotion during the third year and those

who have previously been promoted after beginning full-time teaching at the University. Full-time faculty who have not tendered resignation from the University are required to apply for third year tenure track review in accordance with the following policies and procedures.

1. Third Year Tenure Track Review: Degree and Time Requirements

A ranked full-time faculty member who has completed two years of teaching at Notre Dame de Namur University, upon notification by the Committee on Rank and Tenure by April 1 of his or her second year of employment at the University, must apply for third year tenure track review during the third year. Determination of the faculty member's status within the tenure track is based on the date of hire supplied the Committee by the Human Resources Office.

2. Third Year Tenure Track Review Performance Requirements

A faculty member applying for third year tenure track review must meet the criteria for the rank at which he or she is currently teaching.

3. Third Year Tenure Track Review Preparation of Faculty Portfolio

- a. The Committee on Rank and Tenure will notify each faculty member who is subject to a third year tenure track review by April 1 of his or her second year of employment at the University. The candidate is then required to prepare a faculty portfolio that will document the candidate's continuing achievement and growth. The portfolio may ultimately include materials submitted not only by the candidate but also by Program Chair and senior administrators.
- b. The candidate will include in the portfolio the same materials required for promotion applications.
- c. By November 1, the evaluator will review the faculty portfolio with the candidate. By November 15, the evaluator will then forward the faculty portfolio to the Chair of the Committee on Rank and Tenure.
- d. By November 15, the Chair of the Committee on Rank and Tenure will notify the Provost, the School Dean, Department Chair, and Program Director (if appropriate) of the names of faculty members who have submitted faculty portfolios. Senior administrators and Deans will be given the opportunity to submit additional letters or materials to the Committee on Rank and Tenure. Such letters or materials must reach the Chair of the Committee on Rank and Tenure by November 15. If the Chair receives any such letter or material, the Chair will immediately forward a copy to the candidate. The candidate may then submit a response, which must reach the Chair of the Committee on Rank and Tenure by December 1.
- e. The School Dean may also be requested by the candidate to make a classroom visit and write a letter of evaluation.

4. Third Year Tenure Track Review: Peer Review by the Committee on Rank and Tenure

- a. The Committee on Rank and Tenure will review the faculty portfolio. The Committee will also examine the candidate's faculty personnel file in the Human Resources Office.
- b. If a member of the Committee on Rank and Tenure has written a letter as a Program or faculty peer to be included in a candidate's faculty portfolio, that member shall not participate in the Committee on Rank and Tenure's discussions or decisions with regard to the candidate's application.
- c. The Committee on Rank and Tenure will submit its evaluation of the candidate's portfolio directly to the individual under review. It will take note of those criteria for advancement which are strong and will identify those areas which are marginal or weak. A copy of the recommendations will also be sent to the Provost, the School Dean, the Department Chair or Program Director (if appropriate), and to the Office of Human Resources to be placed into the faculty member's faculty personnel file.
- d. The Department Chair and/or Program Director, as appropriate, will meet with and counsel the faculty member, review the recommendations of the Committee on Rank and Tenure concerning present and future performance and develop a specific timeline and strategy for addressing continued development in areas of strength and improvements in areas that could be improved.
- e. After meeting with Department Chair or Program Director, the faculty member may respond in writing to the Committee on Rank and Tenure. The candidate's response will be incorporated into the faculty portfolio, which will be retained in the Provost's Office. A copy of the response will also be sent to the office of the appropriate Dean to be placed into the faculty member's faculty personnel file in the Human Resources Office.

5. Third Year Tenure Track Review: Administrative Review

The President does not ordinarily receive the contents of any report of the Committee of the third year tenure track review of a full-time tenure track faculty member, but is apprised in writing of the results of the review. Upon request of the President, the Committee will forward to the Provost its file and any report.

G. Appointment of Full-Time Faculty as Professor Emeritus/Emerita

The rank of Professor Emeritus or Professor Emerita may be assigned to Associate Professors or Professors who have terminated their responsibilities as ranked faculty members for valid reasons (e.g., retirement, illness) after ten or more years of distinguished service to the University. Under exceptional circumstances, long-standing Assistant Professors may also be assigned the rank of Professor Emeritus or Emerita. Full-time faculty who have demonstrated to the satisfaction of the Provost continuing achievement and growth are eligible for merit appointment as Professor Emeritus or Professor Emerita in accordance with the following policies and procedures.

1. Professor Emeritus/Emerita: Degree and Time Requirements

A ranked full-time faculty member who has completed ten or more years of teaching at Notre Dame de Namur and who has terminated his or her responsibilities as a full-time ranked faculty member may be considered for emerita/emeritus status. Faculty on early retirement are not eligible for emeriti status until they have completed their early retirement.

2. Professor Emeritus/Emerita: Performance Requirements

The nomination of a retiring member of the faculty to Emeritus/Emerita status must be submitted in the form of a letter from the faculty member's Program Director. If the faculty member is an Program Director, the letter must come from the School Dean as appropriate. If the faculty member is a Dean, the letter may be submitted from a member of the faculty or administration as deemed appropriate by the Provost.

3. Professor Emeritus/Emerita, Peer Review by the Committee on Rank and Tenure

- a. At its December meeting, the Chair of the Committee on Rank and Tenure will present the Committee with a list of faculty eligible to be considered for emeriti status effective the end of the spring semester. The Human Resources Office will confirm that those listed have completed ten or more years of teaching at Notre Dame de Namur University and have or will have terminated their responsibilities as full-time ranked faculty members.
- b. The Committee will decide whether or not to recommend emerita/emeritus status. Majority vote is used in decision making; a tie vote results in no recommendation.
- c. By January 15, the Committee will send recommendations to the Provost, who will forward them to the President.

4. Professor Emeritus/Emerita: Decision by the President

- a. The Provost will recommend and the President will decide whether or not to grant emeriti status.
- b. By February 1, the President will send notice of his decision to the Board of Trustees.



**APPENDIX G – FACULTY DEVELOPMENT, LEAVES,
AND BENEFITS POLICIES**

I. Faculty Development

A. Sabbatical Leave

1. A sabbatical leave should not be considered a right of a faculty member but is accorded to qualified members of the faculty to help them improve their academic contribution to the University through study, research, travel, writing, or creative activity. When applying, faculty are asked to take care that the objectives of the sabbatical are clearly specified and that goals are set that have a reasonable expectation of being completed. Financial support is awarded on the basis of merit, and the obligation of faculty members to their projects is not completed until an account is given after the sabbatical is over and faculty members have resumed teaching duties.
2. Sabbatical leave with full pay for one semester, or half pay for one academic year, may be granted to any faculty member with the rank of assistant professor or higher who has served at least six academic years full-time with the University, and who has not been granted a sabbatical leave in the previous six academic years. Additional sabbatical leaves may be granted whenever the faculty member completes another six-year service cycle.
3. Senior Lecturers may apply for paid sabbatical leaves, following fourteen years' service to the University. Compensation is based upon a six-unit semester salary. Only one such leave will be granted to a senior lecturer in any given semester. All other sabbatical leave policies apply.
4. For purposes of long-range planning, a faculty member considering sabbatical leave must file a preliminary notice of intent to apply for sabbatical leave with the Committee on Rank and Tenure and with his or her Dean by April 15 of the academic year proceeding the year in which formal application will be completed. This notice of intent needs to be in writing.
5. Formal application for sabbatical leave will be made in the form of a proposal to the Committee on Rank and Tenure with the written approval of the applicant's Dean, by October 1 of the preceding academic year. This proposal should contain an outline of the proposed activity and its timeline, a statement as to its value to the University and an appraisal of its professional enrichment to the faculty member. The proposal must state how faculty replacements are planned. If possible, courses should be cycled so that substitute faculty is not needed. Candidates should notify the School Dean of their application for sabbatical.
6. In any given semester, sabbatical leave will be granted to not more than five (5) percent of the total full-time active teaching faculty or eligible senior lecturers. In making this calculation, faculty currently on phased early

retirement and leave of absence are counted as full-time faculty. The maximum number of such leaves per year will be determined by Provost. If the number of faculty requesting leaves exceeds the maximum number which can be granted, the order of selection will be determined by the following:

- Chair of Rank and Tenure is advised in writing of applicant's intent to apply by April 15 of the academic year in which application is intended.
- Completed application is submitted by the posted deadline.
- Degree to which the application meets the criteria outlined in the Faculty Handbook Part V. I. A. 5. and criteria shared with potential applicants at Spring workshop.
Not more than one sabbatical leave will be granted at any one time in the same department.

7. Application is made in current year of eligibility unless applicant is asked to apply in another year due to department or University concerns or documentation of personal need. If sabbatical is deferred for other than department, University, or personal need, the applicant must request permission from the Provost's office and obtain written approval from that office. A sabbatical may only be deferred for a maximum of two academic years from the applicant's actual date of eligibility. If an applicant chooses to defer his/her sabbatical from the year in which s/he is eligible for other than University or departmental need, s/he will not be accorded special consideration in the selection process for the year that s/he applies. (See Part V.I.A.2. for clarification of sabbatical cycling.)

Except for the conditions detailed in Part V. I. A .6., faculty members who defer taking their sabbatical such that they do not complete it within two-years of eligibility, shall forfeit their opportunity and cannot re-apply until they have complete a second six-year period.

In the event a faculty member, due to either university policy, (e.g. no more than 5% of total full-time teaching faculty or eligible lectures), or departmental need, is not approved for sabbatical for two consecutive years, the two-year forfeiture limitation will not apply.

8. A sabbatical leave will be granted only with the written understanding that the faculty member, following the leave, will continue service at the University. Faculty members accepting a sabbatical leave are expected to repay the University in full if they do not remain at the University for two academic years after their sabbatical. Exceptions to this rule may be made at the discretion of the President.

9. Normal raises and benefits will remain in effect during sabbatical leave and the sabbatical year will count in the tally of years of service to the University for advancement in rank, salary, and tenure. The University, during this interval, will continue its contribution toward the faculty member's health insurance and retirement fund if he or she subscribes to either or both.
10. The Committee on Rank and Tenure will send recommendations for sabbatical leave to the Provost by December 1, along with the supporting faculty applications. Faculty members who have been granted sabbatical leave will be notified in writing by the President by February 15. The President's decision on the granting or denial of sabbatical leave will be final.
11. A faculty member who is not recommended for sabbatical leave by the Committee on Rank and Tenure or is not granted leave by the President will be notified within ten (10) working days following the decision to not recommend or not grant. Such a decision shall be in writing and shall include the reasons for the decision.
12. It is imperative that the faculty member advise the Rank and Tenure Committee of any alternations to the proposed project, as soon as possible.
13. The faculty member granted sabbatical leave will make to the Committee on Rank and Tenure, President, the Provost and the School Dean, a written report accounting for his or her sabbatical activity within ninety (90) days of resumption of teaching responsibilities.

Rank and Tenure's approval of this account will constitute the University's confirmation that the intent and/or spirit of the sabbatical was in fact met. Disapproval (e.g., because the faculty member failed to do the work) may result in Rank and Tenure sending a recommendation to the President that the financial support granted the faculty member will be returned, in part or in full, to the University.

B. Release Time

The University allocates release time for full-time faculty and senior lecturers for scholarly and creative research, in accordance with the following policies and procedures:

1. Eligibility for release time

The University allots a total of nine (9) units of release time per year, including summer sessions, for full-time faculty research.

- a. Release time is recommended by Faculty Development Committee and decided by Provost. All full-time faculty and senior lecturers are eligible to submit proposals for release time. There is no restriction on the number of times a faculty member may apply, but priority is given to those who have not previously received release time.

- b. Additional units of release time for specific purposes beneficial to the University may be awarded by the President, following policies and procedures developed by the Provost.

2. Criteria for release time

A proposal for a release time project is evaluated on the integrity, depth, and quality of the scholarly or creative activity. Specific criteria to be evaluated include:

- a. Activities and methodology.
- b. Purpose and value for the faculty member and the University.
- c. Estimated timetable for conducting and completing activities.
- d. Audience for whom the results might be published or presented.

3. Application process for release time

Formal application for release time will be made to the Committee on Faculty Development by November 1 for the following academic year, using a standard form supplied by the Committee. The application will include the signatures of the faculty member's Department Chair or Program Director (to acknowledge scheduling changes that will need to occur if the application is approved). The application will also include attached letters of recommendation from an NDNU colleague, a publisher, a collaborator, or other non-University colleague, as appropriate.

4. Awarding of release time

The Faculty Development Committee will evaluate in writing and recommend to the Provost, release time on a competitive basis. Faculty members who have been awarded release time will be notified in writing by the Provost by December 31. A faculty member who is not awarded release time will be notified within ten (10) working days following the decision not to award. Such a decision shall be in writing and shall include the reasons for the decision.

5. Reporting results of release time project

The faculty member awarded release time will make to the Faculty Development Committee, the President, the Provost, and the School Dean a written report of the results of his or her release time project within ninety (90) days of resumption of full-time teaching responsibilities following the release time semester.

C. Research Grant

The University allots funds for faculty for scholarly and creative research, in accordance with the following policies and procedures:

1. Criteria for research grant

A proposal for a research grant project is evaluated on the integrity, depth, and quality of the scholarly or creative activity. Specific criteria to be evaluated include:

- a. Activities and methodology.
- b. Purpose and value for the faculty member and the University.
- c. Estimated timetable for conducting and completing activities.
- d. Audience for whom the results might be published or presented.

2. Application process for research grant

Formal application for a research grant will be made to the Faculty Development Committee by November 1 for the following spring or by March 1 for the following summer or fall, using a standard form supplied by the Committee. The application will include an itemized budget of expenses which need to be met from this grant, plus any other sources.

3. Awarding of research grant

The Faculty Development Committee will in writing evaluate and recommend to the Provost research grants on a competitive basis. Faculty members who have been awarded research grants will be notified in writing by the Provost by December 15 for the following spring or by April 15 for the following summer or fall. Payments of grants will be authorized by the Provost by December 30 for the following spring or by April 30 for the following summer or fall. A faculty member who is not awarded a research grant will be notified within ten working days following the decision not to award. Such a decision shall be in writing and shall include the reasons for the decision.

4. Reporting results of research grant project

The faculty member awarded a research grant will make to the Faculty Development Committee, the President, the Provost and the School Dean a written report of the results of his or her research grant project within ninety (90) days of resumption of teaching responsibilities following the research grant semester.

D. Travel grant

In order to encourage faculty members to attend professional conferences and meetings, the University allots funds for faculty travel for scholarly and creative purposes in accordance with the following policies and procedures:

1. Eligibility for travel grant

The University allots a total equal to \$300 (**\$800 if faculty member presents**) per full-time faculty member per fiscal year, including summer sessions, for travel grants. At the discretion of the faculty member's School Dean, requests may be made for reimbursement of travel expenditures of Senior Lecturers or Part-time faculty, provided the total amount of travel monies requested does not exceed the amount allocated to that Department.

2. Criteria for travel grant

A request for a travel grant is evaluated on the integrity, depth, and quality of the scholarly or creative activity. Grants may be used to reimburse costs for transportation, housing, meals, and registration for professional conferences or meetings. It is presumed that such meetings will not interfere with the academic duties of faculty members.

3. Application process for travel grant

Formal request for a travel grant is made to the faculty member's School Dean, using a standard travel requisition and expense voucher form supplied by the University's Business Office. The request must include the original, appropriate receipts for the sum requested, unless the receipts have been previously submitted.

E. George M. Keller Teaching Excellence Award

1. The Notre Dame de Namur University award for teaching excellence honors George M. Keller, Governance Board Chairman from 1982-1994. The George M. Keller Teaching Excellence Award, established in 1995, seeks to recognize excellence in teaching by full-time faculty at NDNU. The selection process includes student nomination letters, with attention given to a faculty member's teaching contribution, ability to motivate students, leadership in teaching, success as an academic advisor and other outstanding contributions to the learning process at NDNU.
2. Faculty are nominated by students. Ballots are distributed by the Provost's Office at key posts throughout campus, the week following Spring Break. At the end of this week, the Provost's Office will collect the ballots and forward them to a Selection Committee comprised of faculty, students, and alumni.

3. The Recipient will be inducted into the Keller Scholar Group and receive a grant of \$4000, an attractive wooden plaque to display in his or her office, and their name engraved alongside past recipients on a plaque showcased in the Keller Conference Room. The awardee's name is traditionally announced at the May commencement ceremony, at which time the check and plaque are presented.

F. Purpose and Procedures Of The Sister Catharine Julie Cunningham Chair For Visiting Scholars

Purpose: The Sister Catharine Julie Cunningham Chair was established in 1980 to honor Sr. Catharine Julie upon her retirement from the Office of President of the University (then, College of Notre Dame). It provides a capital investment yielding approximately \$75,000.00, under current market conditions. These funds are used to bring distinguished visiting faculty to the campus, thereby increasing the institution's visibility and prestige in the community and encouraging mutually beneficial academic and cultural activities.

Normally, the visiting scholar teaches a course at either the upper-division or graduate level. He or she is also expected to give a public lecture or other event (such as a workshop) which is open to members of the local community.

The fund has two components:

- (1) Two-thirds is designated to cover costs of two visiting scholar programs each academic year. These costs include the scholar's salary, the release time salary of a co-professor, and other expenses;
- (2) One-third of the funds is distributed at the discretion of the President for a variety of purposes beneficial to the institution, including funding of other visiting faculty and guest lecturers, or of other events that enhance the goals and programs of the University.

Rotation Among Schools:

The Sister Catharine Julie Cunningham Visiting Scholar Chair will be rotated among Notre Dame de Namur University's four Schools, beginning in the following manner:

Fall 2002 or summer Session II 2002:	School of Sciences
Spring 2003 or Summer Session I 2003:	School of Education and Leadership
Fall 2003 or Summer Session II 2003:	School of Business and Management
Spring 2004 or Summer Session I 2004:	School of Arts and Humanities

If a school does not indicate an intent to host a visiting scholar during a given semester, other schools may make requests to host visiting scholars in their programs during that semester.

G. Sister Catharine Julie Cunningham Memorial Teaching Project Award

Each year the University awards \$1000 to a faculty member in order to enhance and honor the teaching/learning experience at the University, to honor excellence in teaching, and to encourage new

and creative ways of achieving excellence in teaching, in accordance with the following policies and procedures:

1. Eligibility for teaching project award

The University allots \$1000 for the teaching project award plus additional funding to purchase an award plaque. All faculty with two years of teaching experience at Notre Dame de Namur University are eligible to submit a proposal for the teaching project award. There is no restriction on the number of times a faculty member may apply, but priority is given to those who have not previously received a teaching project award.

2. Criteria for teaching project award

A proposal for a teaching project award project is evaluated on the integrity, depth, and quality of the teaching activity. The guidelines for teaching projects are broad in order to encourage new and creative ways of achieving excellence in teaching. Projects meriting the award might include developing new courses, using outside resources, setting up colloquia which bring faculty and students together, or creating field-work programs. A project may not involve the University in any cost beyond that of the award itself. Specific criteria to be evaluated include:

- a. Activities and methodology.
- b. Purpose and value for the faculty member and the University.
- c. Estimated timetable for conducting and completing activities.
- d. Audience for whom the results might be published or presented.

3. Application process for teaching project award

Formal application for a teaching project award will be made to the Committee on Faculty Development by March 1 for the following academic year, using a standard form supplied by the Committee. The application will include an itemized budget of expenses which need to be met from this award plus any other sources.

4. Awarding of teaching project award

The Committee on Faculty Development will evaluate and recommend the teaching project award on a competitive basis. A faculty member who has been awarded a teaching project award will be notified in writing by the Committee on Faculty Development by April 15. An award plaque will be presented to the recipient of a teaching project award at the May Commencement ceremony.

5. Reporting results of teaching project award project

The faculty member awarded a teaching project award will make to the Committee on Faculty Development, the Provost, and the President a written report of the results of his or her teaching project within ninety days of resumption of teaching responsibilities following the teaching project award semester.

II. Faculty Leaves

A. Leaves with Pay

1. Holidays

The University observes the following holidays. When one of these holidays falls on a Saturday, the Friday before will be observed; if one falls on a Sunday, the following Monday will be observed. If two holidays fall on the same weekend, only one day will be observed (Friday or Monday):

- a. New Year's Day.
- b. Martin Luther King's Birthday.
- c. President's Day.
- d. Good Friday.
- e. Memorial Day.
- f. Independence Day.
- g. Labor Day.
- h. [Fall Midterm Holiday for students].
- i. Thanksgiving Day.
- j. Day after Thanksgiving.
- k. Day before Christmas.
- l. Christmas Day.
- m. Day after Christmas.
- n. New Year's Eve.
- o. Any other day declared by the President as a holiday.

2. Vacation Leave

Full-time faculty hired on twelve-month contracts have the same rights and responsibilities as other exempt employees with regard to vacation leave. Twelve-month academic unit leaders are entitled to twenty days annual vacation during the first three years of employment. After the third anniversary date of hire, they are entitled to twenty-five days annual vacation. Vacation time does not accrue beyond the following June 30; the maximum number of vacation days that can be accrued is the number earned in one fiscal year. Effective July, 2000, all exempt employees (including faculty) hired after July 1, 2000, will accrue vacation at the rate of fifteen (15) days per year (1.67 days per month), and the maximum accrual will be 30 days (or 240 hours). The scheduling of vacation time must be based on the needs of the University. All vacation requests must be approved in advance by the appropriate academic unit leader or senior administrator. Each faculty member must give the appropriate academic unit leader or senior administrator at least ten days advance notice before taking vacation leave.

3. Sick Leave

- a. Full-time faculty who hold nine-month contracts are entitled to 1 day (8 hours) sick leave per month worked for a total of nine (9) days per year; those who hold ten month contracts will receive ten (10) days per year; those who hold twelve- month contracts will receive twelve (12) days per year. Core Faculty will receive nine (9) days per year. This time may be accumulated for a total sick leave period not to exceed ninety days. Part-time librarian faculty who work 1000 hours or more per fiscal year are entitled to two hours sick leave per month, up to an accumulated maximum of 24 hours.
- b. No prior provision is made for replacing a full-time or part-time faculty member who is unable to attend classes by reason of illness or other necessity. It is assumed that the classes will be cancelled or that other members of the department or program will take the classes temporarily as a service to the University.
- c. The sick faculty member is expected to notify the Dean's designee at the onset of an illness, so that arrangements can be made for the missed classes.
- d. If the illness of a full-time faculty member is an extended one, the faculty member must notify the Human Resources Office, so that FMLA benefits will be applied. Absence in excess of one semester will involve a cessation of salary. If illness continues, the faculty member may be granted a leave of absence.
- e. If the illness of a part-time faculty member is an extended one, a substitute will be provided and the salary of the substitute will be deducted from the salary of the absent faculty member.
- f. Faculty members may use their sick leave only if they are ill, for their medical and dental appointments, for childbirth, or for the illnesses or doctors' appointments for their dependent children, dependent parents, or their spouses, or other uses as mandated by law. Abuse of the University's sick leave policy is dishonesty and may lead to discharge from employment.

4. Bereavement Leave

- a. A leave of absence with pay due to a death in the faculty member's immediate family is allowed for all faculty members. Such leave shall not be charged against vacation or sick leave. The immediate family, as it pertains to this policy, is defined as the employee's parents, spouse, children, son/daughter-in-law, step-children, brothers, step-brothers, sisters, step-sisters, brothers/ sisters-in-law, mother/father-in-law, grandparents, grandchildren, or any dependent who has resided with the

employee for a period of at least one year. The maximum allowable bereavement leave is three working days. Any additional time off will be charged to either vacation leave or leave without pay.

- b. The faculty member shall obtain the approval of the appropriate academic unit leader prior to going on a bereavement leave of absence. If circumstances make this impracticable, the faculty member shall notify the academic unit leader at the earliest possible time. Failure to do so may be cause for denying leave with pay.

5. Leave for Jury Duty

Full-time faculty members will receive their regular, full pay for all time served on jury duty, including all hours spent in preliminary examination.

6. Leave for Service in the Armed Forces

The University allows up to two weeks with pay for annual military reserve training leave taken by full-time and part-time faculty members if the leave is required during a period when the faculty member is scheduled to teach. Any personal recompense earned during a short leave will be deducted from the salary paid by the University. Military reserve training leave is not charged to sick leave or vacation accrual.

7. Leave for National Guard Duty

Full-time faculty members who are activated to National Guard duty for riots, disasters, etc. will be granted the difference between military pay and the salary paid by the University.

8. Academic Leave of Absence with Pay

Leaves of absence are granted to faculty of any rank for sufficient academic reason, such as advanced study, research, or creative activity that will prepare the faculty member for improved service to the University. Such leaves are granted by the President, with the approval of the Dean and Provost. Special arrangements must be made for longer periods. In the case of a leave of absence of a semester or longer, the University will not continue its contribution toward the faculty member's health insurance or retirement fund.

B. Leaves Without Pay

1. Academic Leave of Absence Without Pay

A leave of absence for educational or professional reasons may be granted to ranked faculty without salary by the Dean and Provost for a period of no more than two years. A favorable recommendation by the Committee of Rank and Tenure is considered. The faculty member's status or tenure will not be affected

by such leaves. Up to one year on such a leave may count toward step, promotion in rank, tenure or sabbatical time, at the discretion of the Committee on Rank and Tenure.

2. Personal Leave of Absence Without Pay

Ranked faculty wishing to have extended personal leave without pay will make their request to the School Dean. Ordinarily such leaves will not exceed one academic year. An effort should be made, however, to arrange the leave to coincide with the academic terms. The faculty member's status or tenure will not be affected by such leaves, but time on such leaves will not count toward promotion in rank, tenure, or sabbatical time. Consult the Human Resources Office for information on the Family and Medical Leave Act provisions.

II. OTHER FACULTY BENEFITS

A Institutional Benefits for Faculty

1. Tuition Remission

a. See The Employee Handbook for Administration and Staff.

2. Use of Swimming Pool

The swimming pool is open to employees and their families.

3. Facilities Usage

Employees may use the facilities of the Physical Education Department which include the swimming pool, tennis courts, gymnasium, and other approved facilities subject to University policies and regulations concerning the use thereof.

4. Ralston Hall – is closed; however,

Employees are entitled to a fifty percent (50%) reduction in the rate of rental for Ralston Hall. Arrangements must be made with the Coordinator of Ralston Hall.

5. Bookstore Discounts

Employees of the University are entitled to the following discounts on purchases made at the Notre Dame de Namur University Bookstore: A twenty percent (20%) discount is available on school, instructional, and office supply purchases. A ten percent (10%) discount is available on clothing, calculators, novelty items, and greeting card purchases. No discounts may be taken on book purchases or perishables.

B. Institutional Benefits for Retired and *Emeriti* Faculty Members

1. Notre Dame de Namur University is committed to promoting close ties between itself and its faculty members who have reduced their teaching load or retired. To this end, the following assistance and privileges are available at no charge for faculty who have retired from the University: use of the library, language laboratory, computer laboratories, pool, gymnasium, and parking facilities; placement in College mailing lists and directories; admission (with guest) to cultural events sponsored by the Art, Music, and Theatre Arts departments; attendance at faculty meetings with voice but without vote; and attendance at classes as auditors if space is available.
2. *Emeriti* faculty members have the additional privileges of representing the University officially if requested by the President, walking in academic processions, being listed in the University *Catalog*, and being provided office space if facilities permit.

APPENDIX H – NON-DISCRIMINATION

A. Equal Employment Policy

NDNU prohibits unlawful discrimination based on sex (including' race, color, religion, religious creed, age (over 18 years), mental or physical disability, medical condition as defined by law, national origin, ancestry, marital status, veteran status, sexual orientation, gender identity or expression, and any other factor made unlawful by federal, state, or local law, including participation or non-participation in union activities. NDNU's commitment to equal opportunity employment applies to all persons involved in the operations of the University and prohibits unlawful discrimination by any employee of the University. Consequences for violation of the NDNU Policy are discipline up to and including discharge.

To comply with applicable laws ensuring equal employment opportunities to qualified individuals with disabilities, the University will provide reasonable accommodations for the known physical or mental limitations of an otherwise qualified individual who is an applicant or an employee, unless undue hardship for the University would result.

Any applicant or employee who requires or requests an accommodation in order to perform the essential functions of his or her job should be directed to the Executive Director of Human Resources to request and document the need for such an accommodation. The University will assess the request and if the accommodation is supported and is reasonable as determined by the University, and will not impose an undue hardship, the University will make the accommodation. The University may also propose alternative accommodation(s).

B. Procedure to Assist in Implementation of the Equal Employment Policy-Discrimination or Retaliation

If an employee believes that he or she has been subjected to any form of discrimination or retaliation, he or she should submit a written complaint to the Provost and/or Executive Director of HR. The employee may choose to submit a copy of the employee's complaint to the designated representative of the Union and if so, shall notify the Provost and Executive Director has done so. The complaint should be specific and include the names of the individuals involved as well as the names of any witnesses. NDNU will, in all appropriate cases, immediately undertake an effective, thorough, and objective assessment. NDNU will consider the privacy and confidentiality of all parties involved. If the University determines that unlawful discrimination has occurred, effective remedial action will be taken. Appropriate action will also be taken to deter any future discrimination. Whatever action is taken will be made known to the complaining employee in general form. The University will not retaliate against an employee for filing any good-faith complaint and will not knowingly permit retaliation by management, coworkers, or other employees.

Local 1021 and NDNU each commits that its representatives will not engage in discrimination or retaliation of employees of the University, based upon participation or non-participation in union activities.

In addition to the University's internal reporting procedure for unlawful discrimination and retaliation, employees should be aware that the federal. Equal Employment Opportunity Commission (EEOC)

and the California Department of Fair Employment and Housing (DFEH) investigate reports of unlawful discrimination in employment. Employees who believe that they have been discriminated against may file a report with the EEOC within 300 days of the conduct or with the DFEH within one year of the conduct. You may contact the nearest office of the EEOC or DFEH.

C. Prohibition of Unlawful Harassment

In accordance with applicable law, NDNU prohibits sexual harassment and other harassment based on sex (including gender), race, color, religion, religious creed, age (over 18 years), mental or physical disability, medical condition as defined by law, national origin, ancestry, marital status, veteran status, sexual orientation, gender identity or expression, and any other factor made unlawful by federal, state, or local law, including participation or non-participation in union activities. The University is committed to taking all reasonable steps to prevent unlawful harassment.

The law defines sexual harassment as unwanted sexual advances, requests for sexual favors, or visual, verbal, or physical conduct of a sexual nature when: (1) submission to such conduct is made a term or condition of employment; (2) submission to or rejection of such conduct is used as a basis for employment decisions affecting the individual; or (3) such conduct has the purpose or effect of unreasonably interfering with an employee's work performance or creating an intimidating, hostile, or offensive working environment.

Federal law, referred to as "Title IX", protects University students and other University community members from sexual misconduct. The University will notify the union of intake and other procedures that will govern Title IX reports related to students and others.

This definition includes many forms of offensive behavior, including, but not limited to unwanted sexual advances; offering employment in exchange for sexual favors; making or threatening reprisals after a negative response to sexual advances; visual conduct such as leering, making sexual gestures, or displaying pornographic objects, pictures, cartoons, or posters; verbal sexual advances or propositions; verbal abuse of a sexual nature; graphic verbal commentary about an individual's body; sexually degrading words to describe an individual; suggestive or obscene letters, notes, or invitations; or physical conduct such as touching, assault, or impeding or blocking movements.

Sexual harassment by any NDNU employee is forbidden whether it involves coworkers, supervisors, managers, faculty, students, or persons doing business with or for the University.

Within the Joint Labor Management Committee, the University may request consultation on ways that the union and University may mutually cooperate in support of this policy.

D. Procedure to Assist in Implementation of the Policy Against Unlawful Harassment

If an employee believes that he or she has been subjected to any form of harassment, s/he should submit a written complaint to the Executive Director of Human Resources and/or Provost. The employee may choose to submit a copy of the complaint designated representative of the Union and if so, shall notify the Provost and Executive HR in writing s/he has done so. The complaint should be specific and include the names of the individuals involved as well as the names of any witnesses. NDNU will, in all appropriate cases, immediately undertake an effective, thorough, and objective assessment. NDNU will consider the privacy and confidentiality of all parties involved. If the

University determines that unlawful harassment has occurred, effective remedial action will be taken. Appropriate action will also be taken to deter any future harassment. Whatever action is taken will be made known to the complaining employee in general terms. The University will not retaliate against an employee for filing any good-faith complaint and will not knowingly permit retaliation by management, coworkers, or other employees.

In addition to the University's internal reporting procedure for unlawful harassment, employees should be aware that the federal Equal Employment Opportunity Commission (EEOC) and the California Department of Fair Employment and Housing (DFEH) investigate reports of unlawful discrimination and harassment in employment. Employees who believe that they have been discriminated against or sexually harassed may file a report with the EEOC within 300 days of the conduct or with the DFEH within one year of the conduct. Employees may contact the nearest office of the EEOC or DFEH.

E. Policy Prohibiting Close Personal Relationship in Teaching, Mentoring, and Supervisory Activities

The University is committed to maintaining a learning and working environment that is free from unlawful harassment and discrimination, and also from the potentially adverse effects that can arise from close personal relationships in the course of teaching, mentoring and supervisory activities, including those involving students. The following Policy is intended to prevent situations from arising in which violations of the Equal Employment Policy can occur and in which perceptions of such violations can arise.

Such relationships at the University may interfere with the ability of the teacher, mentor and supervisor to act fairly and without favoritism or may contribute to the perception of favoritism. Except where explicit approval has been obtained in writing from the provost, no person who provides teaching, mentoring or supervisory functions at the University may participate in a close personal relationship with an individual who is a member of the University community for whom that person provides, or may (by virtue of University-permitted or-assigned position or functions) reasonably be expected in the future to provide teaching, mentoring or supervision.

"Supervision" includes grading or other academic evaluation, tutoring for pay, job evaluation, hiring decisions and those pertaining to promotion, the direct setting of salary or wages, and the determination of internship, educational, or employment opportunities, references or recommendations. A "supervisor" is anyone who oversees, directs or evaluates the work of others, including, but not limited to managers, administrators, coaches, directors, deans, and advisors.

"Close personal relationships" include marriage, domestic partner, dating, sexual and similar close personal relationships, even if they are consensually undertaken. "Close personal relationships" do not include the usual and customary socializing at the University of teacher- student; mentor-mentee; supervisor-employee; faculty member-graduate student; co-workers; and supervisor-student employee.

Within Joint Labor-Management Committee, the University may request consultation on ways that the Union and University may mutually cooperate in support of this policy.

APPENDIX I – FACULTY SALARY SCHEDULES

FACULTY SALARY SCHEDULES 2017-18

Effective: August 15, 2017

NDNU FULL TIME FACULTY SALARY SCALE

FULL TIME	ASST. PROF.		ASSOC. PROF		PROFESSOR	
	9 months	12 months	9 months	12 months	9 months	12 months
Instructor	55,031	73,375				
1			64,824	86,430	75,149	100,196
2			66,768	89,022	77,403	103,203
3			68,772	91,695	79,725	106,298
4	62,020	82,691	70,834	94,445	82,117	109,487
5	63,879	85,172	72,960	97,279	84,579	112,773
6					87,117	116,155
7					89,731	119,640
8					92,423	123,230

NDNU FULL TIME LIBRARIAN SALARY SCALE

FULL TIME	ASST. LIBRARIAN	ASSOC. LIBRARIAN
STEP	10 months	10 months
1		72,026
2		74,187
3		76,413
4	68,911	78,705
5	70,977	81,066

NDNU PART TIME FACULTY SCALE (August 15, 2017)

	RATE PER UNIT	LAB RATE
LEVEL		
1 (4)	1,216	811
2 (5)	1,364	909
3 (6)	1,551	1,034
SENIOR LECTURER	1,736	1,158

NDNU PRIVATE MUSIC LESSON SCALE

LEVEL		
1 (4)	860	
2 (5)	962	
3 (6)	1,078	

NDNU CORE FACULTY SCALE

LEVEL	(10% ABOVE PT SCALE)	LAB RATE
1 (4)	1,338	892
2 (5)	1,500	1,000
3 (6)	1,706	1,138
SENIOR LECTURER	1,910	1,273

FACULTY SALARY SCHEDULES 2018-19

Effective: August 15, 2018

Increase:
2.0%

NDNU FULL TIME FACULTY SALARY SCALE

FULL TIME	ASST. PROF.		ASSOC. PROF		PROFESSOR	
	9 months	12 months	9 months	12 months	9 months	12 months
Instructor	56,132	74,842				
1			66,120	88,159	76,651	102,200
2			68,103	90,803	78,951	105,267
3			70,147	93,529	81,319	108,424
4	63,260	84,345	72,251	96,334	83,759	111,676
5	65,157	86,875	74,419	99,224	86,271	115,028
6					88,860	118,478
7					91,526	122,033
8					94,272	125,694

NDNU FULL TIME LIBRARIAN SALARY SCALE

Handwritten initials

FULL TIME	ASST. LIBRARIAN	ASSOC. LIBRARIAN
STEP	10 months	10 months
1		73,467
2		75,670
3		77,941
4	70,289	80,279
5	72,396	82,688

NDNU PART TIME FACULTY SCALE

	RATE PER UNIT	LAB RATE
LEVEL		
1 (4)	1,241	827
2 (5)	1,391	927
3 (6)	1,582	1,055
SENIOR LECTURER	1,771	1,181

NDNU PRIVATE MUSIC LESSON SCALE

LEVEL		
1 (4)	878	
2 (5)	981	
3 (6)	1,100	

NDNU CORE FACULTY SCALE

	(10% ABOVE PT SCALE)	LAB RATE
LEVEL		
1 (4)	1,365	910
2 (5)	1,530	1,020
3 (6)	1,740	1,160
SENIOR LECTURER	1,948	1,299

RAV

FACULTY SALARY SCHEDULES 2019-20

Effective: August 15, 2019

Increase: 2.0%

NDNU FULL TIME FACULTY SALARY SCALE

FULL TIME	ASST. PROF.		ASSOC. PROF		PROFESSOR	
	9 months	12 months	9 months	12 months	9 months	12 months
Instructor	57,254	76,339				
1			67,443	89,922	78,184	104,244
2			69,465	92,619	80,530	107,372
3			71,550	95,399	82,946	110,593
4	64,526	86,032	73,696	98,261	85,435	113,910
5	66,460	88,612	75,907	101,209	87,996	117,329
6					90,637	120,848
7					93,356	124,474
8					96,157	128,208

NDNU FULL TIME LIBRARIAN SALARY SCALE

FULL TIME	ASST. LIBRARIAN	ASSOC. LIBRARIAN
STEP	10 months	10 months
1		74,936
2		77,184
3		79,500
4	71,695	81,884
5	73,844	84,341

NDNU PART TIME FACULTY SCALE

	RATE PER UNIT	LAB RATE
LEVEL		
1 (4)	1,266	844
2 (5)	1,419	946
3 (6)	1,646	1,097
SENIOR LECTURER	1,843	1,228

Additional 2%

NDNU PRIVATE MUSIC LESSON SCALE

LEVEL		
1 (4)	895	
2 (5)	1,001	
3 (6)	1,122	

NDNU CORE FACULTY SCALE

	(10% ABOVE PT SCALE)	LAB RATE
LEVEL		
1 (4)	1,392	928
2 (5)	1,560	1,040
3 (6)	1,811	1,207
SENIOR LECTURER	2,027	1,351

SIDE LETTER – PPP

NDNU will consider a cohort model of Master's in English and Education programs. The Provost will request academic unit leaders to propose a cohort model. The Provost will evaluate the proposal and the President will make the decision.

The Collective Bargaining Agreement is hereby executed.

SEIU Local 1021, AFL-CIO

NOTRE DAME DE NAMUR UNIVERSITY




PRESIDENT OF THE UNIVERSITY











Exhibit D

June 15, 2015

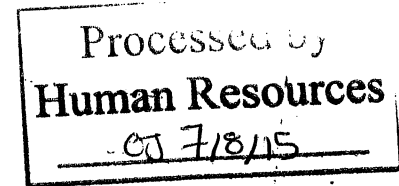
Page 1 of 3

Lee Strawn

Notre Dame de Namur University (NDNU)

PART-TIME FACULTY CONTRACT
Summer 2015

Lee Strawn
NDNU ID: 297603
lstawn@ndnu.edu
lees@sfsings.com



This letter will confirm the terms of the University's offer to you of a contract to the part-time faculty, as Lecturer, Level 6, College of Arts and Sciences for the expected period of 06/22/15 through 07/31/15. **To accept this offer you must sign this letter to signify that you have read and agreed to it AND you must return the signed letter to the office of the College of Arts and Sciences by no later than 10 days after the date of the Associate Provost's signature or the beginning of the term of the contract, whichever is sooner.** This is not an appointment to the regular faculty.

Your total compensation will be \$2,778.00, and will be paid 06/30/15 through 07/31/15. The particulars of your expected teaching assignment and rates of pay under this offer are specified in detail per the attached Worksheet (Attachment A).

This contract will incorporate University policies and procedures applicable to part-time faculty appointments, as currently contained in the Faculty Handbook and as the University may revise the Handbook from time to time.

NDNU reserves the right, in its sole discretion, to terminate or modify the expected teaching assignments and the expected level of overall compensation, or to make different or other teaching assignments to courses in subject(s) for which you are qualified, in the event that sufficient enrollment is not attained so as to warrant in University judgment offering any such courses, or for other reasons of academic operations.

Your appointment carries with it the obligations and benefits generally accorded to Faculty Members of your type (part-time), including your obligation of adherence to policies governing the behavior of University employees.

This contract, your past part-time faculty service, and/ or service under this contract, do not confer preference or entitlement to renewal of part-time appointment, nor to receive consideration, preference or entitlement to any regular faculty appointment, and does not count as service for purposes of any regular appointment. Please remember that part-time faculty members do not receive employee benefits, such as health, retirement, vacation, sick, disability and any other employee benefits (except for Social Security, Medicare, SDI and Workers' Compensation). In as much as your service is believed by the University to be recognized in California as that of an adjunct teacher at a private institution of higher education, this contract does not lead to coverage by California unemployment benefit programs.

June 15, 2015

Page 2 of 3

Lee Strawn

Notre Dame de Namur University (NDNU)

If your expected compensation from the University as a part-time faculty member is such that you will receive gross compensation from the University in any month in an amount which is less than \$ 2100, then you are prohibited from working more than eight (8) hours per work day, and from working more than forty (40) hours per work week, in respect to work for the University. No deviation is permitted, except upon advance written authorization by the Dean.

You agree that the obligations and duties that you accept by signing this Faculty Contract must be fulfilled, as described in the Faculty Handbook, even if they begin prior to or extend beyond the period of time during which you will be paid under this Faculty Contract. Additionally you understand that institutional communication is often sent via University email; therefore, you agree to check your University email account on a weekly basis. You agree to submit all student grades in a timely fashion, in compliance with University procedures.

Binding Arbitration-No Court: You and the University mutually agree that any legal controversy or claim of any kind or type, by either you vs. the University and/or its employees, or by the University vs. you, including any dispute over arbitrability, and including but not limited to claims arising from or related to federal or state statute or contract or tort law, shall be settled by binding arbitration under the California Arbitration Act. This means no trial court or jury, only the impartial arbitrator will decide cases. The University pays 100% of the fees of the arbitrator in employment statute cases and any other cases that the law so requires. The arbitration shall occur in San Francisco. The arbitrator shall have the same power to require all reasonable discovery and award all remedies, as would a judge in court. The arbitrator shall be neutral and shall be selected by mutual agreement. Judgment on the arbitrator's award may be entered by any court having jurisdiction of the matter.

This Contract constitutes the entire agreement between you and NDNU relative to your employment as a Faculty Member, superseding all prior written or oral agreements, and is not effective or binding until it has been signed by the Associate Provost and your school or college Dean of NDNU, signed by you, and all relevant immigration or visa applications are completed and approved by the appropriate government entities. This Faculty Contract may be modified only in a written agreement signed by you and the Associate Provost, and your Dean.

June 15, 2015

Page 3 of 3

Lee Strawn

Notre Dame de Namur University (NDNU)

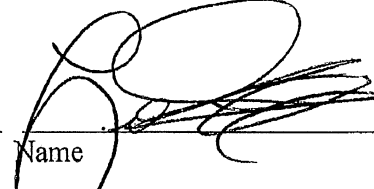
NOTRE DAME DE NAMUR UNIVERSITY

FACULTY MEMBER

By Gregory B. White Digitally signed by Gregory B. White
DN: cn=Gregory B. White, o=Notre Dame
de Namur University, ou=Office of the
Provost, email=gwhite@ndnu.edu, c=US
Date: 2015.06.24 11:31:31 -0700
Associate Provost

6/24/15

Date



Name

6/30/15
Date

By John Lemmon Digitally signed by John Lemmon
DN: cn=John Lemmon, o=NDNU,
ou=Dean, College of Arts and Sciences,
email=jlemmon@ndnu.edu, c=US
Date: 2015.06.16 08:12:50 -0700
Dean

6.16.15

Date

Notre Dame de Namur University
1500 Ralston Avenue
Belmont, CA 94002

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Notre Dame de Namur Hit with Adjunct Professor's Class Action Over Host of Alleged Wage and Hour Abuses](#)
