

con·tin·gent \kən-ˈtɪn-jənt\ *adj.* [[L *contingens*,
prp. of *contingere*, to touch]]

1 that may or may not happen: possible **2** happening
by chance: accidental **3** dependent on or conditioned
by something else—payment is contingent on fulfillment
of certain conditions

UUP Position Statement on Contingent Employment

Adopted by the UUP Executive Board July 10, 2015

I. Introduction

The UUP Executive Board charged the UUP Contingent Employment Committee to develop a policy statement on contingent employment. "Contingent" employment is defined by the UUP Constitution as any appointment for which continuing appointment or permanent appointment is not prescribed (Endnote #1). At present, any contingent employee may be non-renewed or terminated without cause. UUP intends this policy statement on the use of contingent labor in SUNY to not only guide UUP's approaches to collective bargaining and legislative agendas, but also to influence state and national policy pertaining to contingent employment practices in higher education.

The casualization of academic labor is detrimental to the quality of education. More and more national attention and political discourse are being focused on the staffing crisis in higher education. From 1975 through 2011, 90 percent of all instructional appointments in American higher education have been in contingent positions (Curtis, 2 & 4). At present, 59 percent of UUP's Academic members are employed in contingent positions. Many problematic practices in higher education in the United States cannot be effectively mitigated without addressing contingent employment practices. UUP's Delegate Assembly has a long history of protesting the practice of using contingency to erode tenure; for example, its 9/03/76 Position Statement protested the Regents' Plan that recommended "the abolition of tenure and job security by providing for the employment of more part-time faculty members, the lengthening of probationary periods, and the awarding of renewable contracts instead of tenure" (page 13 of the [Position Statements Manual, Archive Section](#)). UUP is making every effort to improve the terms and conditions of employment for its own members working in contingent positions, to support the call for adequate higher education funding in order to restore full-time positions and to transition part-time employees seeking full-time work into full-time positions, and to support efforts of the major higher education unions to reverse the national trend away from secure academic employment. UUP's position on contingent employment practices will guide important decisions UUP will make in the next decade, as it attempts to meet its fiduciary obligation to represent all members in the bargaining unit and to influence the policies of its affiliates.

II. Guiding Principles

In keeping with its constitutional purpose "to defend the civil, professional, and human rights of those it represents," UUP recognizes the fundamental dignity of human labor. The civil, professional and human rights of UUP members are jeopardized by contingency. Just as importantly, UUP recognizes the universal right to quality education, in keeping with its constitutional purpose "to advance education in a democracy and to advance democracy in education." Education is not only an essential civil and human right, it is critical for a sustainable democracy. But first-rate education is jeopardized by the far-reaching consequences of contingent employment. A substantial body of research now shows that contingent employment practices have a negative impact on the quality of students' educational experience (Kezar and Maxey). "Every accommodation that faculty must make in the face of insecurity, overwork, and lack of resources and office space diminishes the material conditions of the students' educational experience" (Moser 92). Precarious academic employment as the norm is an affront to the dignity of the professional work performed by educators and to the value of education itself.



Contingent work has grown in our national economy as trade unions have been besieged. In academia, it has developed over decades and will not be mediated overnight; however, every year that the percentage of precarious workers rises, it becomes that much harder to reverse this destructive trend. UUP's "Report of the Task Force on Contingent Employees" (February, 2010) establishes the ways in which the contingent employees in UUP's bargaining unit are treated inequitably, and argues for a number of changes to the current terms and conditions of employment, as well as the structure of the union itself. Some of the report's recommendations have already been implemented. UUP continues to draw upon the rationales and recommendations within the report, as well as complementary policy statements recently published by AAUP ("Contingent Appointments and the Academic Profession") and AFT ("Reversing Course: The Troubled State of Academic Staffing ...") as it works to redress inequities. UUP played a key role in the passage of the resolution addressing contingent academic employment at the 2014 AFT Convention, "Ending the Exploitation of and Reliance on a Contingent Academic Labor System in Higher Education," which describes a comprehensive agenda for reform. UUP intends to rely on the following five principles to guide its planning and implementation of action plans to address the need for change.

1. First Principle: Equity.

All UUP members deserve equitable treatment. All professional employees of a college or university, whatever their full-time equivalency, should be afforded equitable terms and conditions of employment commensurate with their qualifications. To the extent that UUP is able to collectively bargain the terms and conditions of employment, and/or to influence the laws and policies of the various agencies that govern higher education in general and that determine the local terms and conditions of employment for UUP's members, UUP has the following objectives:

A. Equitable Compensation and Benefits

UUP endorses the regularization of contingent labor with regard to wages with the salaries of Academic part-time employees determined on a pro rata basis in relation to the salaries of full-time employees whose work obligations are similar, as is generally the case for the Professional employees who are members of UUP. In situations where Professional contingent employees do not have parity with their peers' salaries, UUP will do what it can to rectify that inequity. Equitable benefits should also be provided to part-time employees.

B. Equitable Academic Freedom and Due Process

AFT defines academic freedom as "the right of faculty members, acting both as individuals and as a collective, to determine without outside interference: (1) the college curriculum; (2) course content; (3) teaching; (4) student evaluation; and (5) the conduct of scholarly inquiry" (www.aft.org/position/academic-freedom). The fact that contingent faculty are in essence at-will employees undermines the academic freedom of the faculty as a whole. In light of the essential role academic freedom plays in ensuring high-quality higher education, and in view of the fact that the majority of SUNY's classroom faculty are employed off the tenure track, it is clear that their collective accommodation to precarious employment is unacceptable. "When every move that contingent faculty make is a negotiation with the parameters of at-will employment, and when they constitute the vast majority of higher education faculty, the ramifications for the quality of higher education that all students deserve is obvious" (Eron 31). UUP supports the extension of the same due process rights in effect for continuing and permanent appointments to contingent employees who have served satisfactorily over the course of a probationary period to be mutually determined by the institution and the union. UUP supports job security enhancements, including but not limited to, progressively longer terms of appointment, and opportunities for conversion of positions held by current contingent employees to positions eligible for continuing or permanent appointment (tenure).

C. Equitable Advancement Opportunities and Professional Support.

UUP supports the following best practices:

- a) when filling a vacant part-time position, offering additional assignments to current part-time employees who are doing the same kind of work and wish to obtain a higher FTE, up to and including conversion of the current part-time employee's position into a full-time position;
- b) as tenure-track positions become vacant or are newly created, giving part-time and full-time contingent employees performing similar work first consideration;
- c) providing realistic pathways for advancement for part-time and full-time contingent positions;
- d) ensuring that all faculty have access to resources they need to do their work properly.

D. Equitable Participation in Faculty Governance.

UUP recommends that every member of the professional workforce be afforded full voting rights within departments and other campus governance bodies. Clearly, faculty governance cannot be "democracy in action" (www.aft.org/position/academic-freedom) if more than half of the faculty are not permitted to have a voice in decision-making.

E. Equitable Opportunities for Union Representation.

Within the local, statewide, and national levels of all academic labor organizations, there should be designated seats

and offices for those members employed contingently, and internal organizing should be undertaken in order to mobilize contingents' political participation in union governance in proportion to the members in this category of employment.

As long ago as 2/01/92, UUP issued a Position Statement that:

Part-timers should have a fair voice within the union. To that end, there should be changes in union governance. Such changes might include, but would not be limited to, creating officer positions for part-timers, such as VP for Part-timers on the UUP Executive Board and VP for Part-timers on the Executive Board of each UUP chapter; greater representation of part-timers in the Delegate Assembly and on all the Standing Committees of the union. The effects of these changes should be that part-timers have a voice and representation more suitable to their numbers within and importance to the union ([Position Statements Manual, Archive Section 33](#)).

In another Policy Statement published that year, UUP commissioned research to answer this question: "How can the Constitution of UUP be amended to increase part-time participation and to better meet the needs of part-timers?" (page 33 of the [Positions Statements Manual 33](#)). The 2010 report of the Task Force on Contingent Employees sets forth several specific recommendations regarding union representation, a few of which have already been implemented. UUP has amended its Constitution to enfranchise the voice of contingent members by including a category of membership for contingents that enables them to be eligible to remain members after being non-renewed; by reserving a seat for a contingent member on its statewide Executive Board; and by providing an additional delegate seat to be occupied automatically by the Officer for Contingents elected at each chapter. In addition, the UUP president has appointed more than one contingent faculty member to each contract Negotiations Team since 2010.

As is often the case when an extreme imbalance of power has become historically ingrained, an affirmative action program may be necessary to restore balance to the equation. The 2010 task force report called for constitutional changes and reallocation of resources to instigate equitable representation of contingent members within UUP's governance, even if that means employing transitional steps that make it easier for people who are marginalized and economically disadvantaged to participate. UUP urges other unions to do likewise and to publicize ways that such members can be more effectively encouraged and empowered to become involved. "Pathways to leadership, both temporary and flexible or long-term and stable, must be transparently visible to participants" (Worthen 83) if unions are to form true communities of interest that include their contingent members.

2. The Second Principle: Every member is a whole member.

Roughly 45 percent of all of UUP's members fall within the ever-expanding category of contingent employment, wherein the working conditions of part-time and full-time positions are categorically different from the working conditions extended to other employees; however, as we are all equally committed to the best interests of our students, UUP represents all of its members equally and to the full extent of its powers. Every UUP member is a full member of the union and the person should never be confused with the position he or she currently occupies or has occupied previously. Employees' abilities and the quality of work they do are not defined by the position they occupy. Every member is entitled to full representation by its union.

3. The Third Principle: Seniority.

Honoring the principle of seniority has been recognized historically within the labor movement as the fairest way to make decisions about employment that validate expertise gained from practice. Honoring seniority "acknowledges that workers learn while working and that senior workers know something young workers don't know" (Worthen 109). Throughout academia, unions have insisted that this principle underlie contractual arrangements for the terms and conditions of employment. UUP accepts the principle of seniority. On 1/03/93, the Delegate Assembly adopted a Position Statement urging UUP "to advance the principle of seniority for part-time employees," and urging the Negotiations Committee to consider making the seniority principle "a top priority demand for future contracts for both academic and professional employees" ([Positions Statement Manual, Archive Section 34](#)). The union supports policies that embody seniority with regard to contractual negotiations and employment decisions involving contingent workers. *The Agreement Between UUP and New York State* recognizes seniority for the purposes of retrenchment, and UUP contends that decision-making involving the appointment and renewal of appointments for contingent employees should likewise honor the principle of seniority.

4. The Fourth Principle: Solidarity.

UUP has always abhorred and sought to redress divisive practices. UUP's Constitution articulates solidarity as one of its purposes—"to promote the principle of unity and collective bargaining in higher education" (Article II). We are all sisters and brothers, and an injury to one is an injury to all, whether that one be a Professional or an Academic, part time or full time, active or retired.

The essential work contingent employees do—often performing tedious and challenging teaching duties in introductory courses, taking on unpopular times in the teaching schedule or undesirable duties and shifts in our hospitals and other

venues in an attempt to prove themselves indispensable in the face of the ever present threat of non-renewal—creates an exploitation that unions must address. The exploitation of employees on contingent appointments gives management the leverage to drain resources from departments and programs, to overwork the shrinking core of tenure-eligible faculty, and to erode faculty governance, academic freedom and the institution of tenure. Thus, it is in the interest of all union members to protect the most vulnerable and exploited among us. UUP expects its non-contingent members to make common cause with their contingent colleagues.

5. The Fifth Principle: Seek to Avoid Harm.

In order to protect its members who are working contingently, UUP is committed to the fundamental principle of seeking as much as possible to prevent actions that will harm members. Actions that result in the loss of employment, compensation, or benefits by any of the members within its bargaining unit run counter to UUP's objectives. According to its *Founding Principles*, UUP opposes the non-renewal of Academic and Professional employees at the State University except those occasioned by retirement or termination for cause. Further, UUP strongly recommends that its members "not participate in campus or statewide efforts to identify programs, departments, other units or individuals for retrenchment inasmuch as such efforts can only produce dissension and disunity among colleagues at the sacrifice of academic integrity" (*Founding Principles: 1973-2011, Retrenchment*).

In addition, UUP condemns any legal but unethical actions undertaken by management to coerce employees, such as intimidating members into formally waiving their rights to appropriate working conditions in order to remain employed. It is UUP's view that stabilization of the workforce and conversion of the current workforce configuration to a predominantly "tenured" workforce should be accomplished through attrition, not through non-renewals or terminations. UUP is committed to a secure, financially just work environment for all workers.

III. Conclusion

To the extent that resources and local circumstances permit, UUP urges all of academia to prioritize improvement of the terms and conditions of employment for contingent workers, creating realistic pathways for them to secure more work, more equitably paid work, and work that is more secure. The diversity of positions and work obligations within the higher education profession does not justify depriving workers of fair wages, job security, advancement opportunities, and the other benefits traditionally awarded in exchange for a career in a difficult profession that requires years of post-graduate education and ongoing professional development. All college and university workers share the same mission. We work in concert to achieve sustainable first-rate educational experiences for all students aspiring to a higher education.

Notes

#1 Contingent status, the lack of eligibility for continuing appointment or permanent appointment, derives from the SUNY Board of Trustees Policies. Contingent Academics are those full-time and part-time employees in "qualified academic rank." This includes rank "held by those members of the academic staff having titles of lecturer, or titles of academic rank preceded by the designations 'clinical' or 'visiting' or other similar designations (BOT Policies, Article II, pg. 14)." Contingent Professionals are full-time and part-time employees who serve in professional titles listed in appendix A, B, and C of the SUNY Board of Trustees Policies.

Citations

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