

ROBERT I. GROSSMAN, M.D.

The Saul J. Farber Dean and Chief Executive Officer

October 22, 2009

To: David McLaughlin
Provost

From: Robert I. Grossman, M.D.
Dean, School of Medicine



Cc: Robert Berne
Senior Vice President for Health

John Sexton
President

Re: Request for Approval of Salary Adjustment Program for 2010

In your memo to me of March 17, 2008, following your approval of the performance standards for faculty in the School of Medicine, you stated that you wished to have the opportunity to review and approve any program of salary reductions for faculty who do not meet those standards. I am writing to request your approval of the attached Salary Adjustment Program to take effect on January 1, 2010.

Implementation of this Program is an important component of our plans to keep the School of Medicine in the top tier of U.S. schools of medicine. The Academic Excellence Commission (AEC) recommended that all research faculty be required to fund a portion of their salary allocated to research from external sources. The AEC also recommended that those faculty who had not obtained the minimum level of external funding be subject to reductions in their salary.

In developing this Program, we have consulted extensively with the faculty. We also provided drafts of the proposed Salary Adjustment Program to the Faculty Council for their comments and suggestions, and have made alterations to earlier drafts of the Program in response to some of their suggestions. In addition, we have worked closely with department chairs to ensure that the Program recognizes both prior success in obtaining external funding and current efforts to obtain external funding. We have also provided support to faculty who need to increase their external funding and have required chairs to work with each faculty member who has not met the external funding standards in order to develop a plan that will result in success for that individual.

The AEC recommended salary reductions for research faculty who failed to have external funding equal to or greater than 55 percent of the individual's salary. In the interest of introducing the Program gradually, we are recommending, instead, that for this first year reductions apply only to those faculty who obtained less than 20 percent of their salary from external funding . We expect that no more than 20 faculty members will be affected this year. Salary reductions under the Program will range from one percent to a maximum of 20 percent. We will review this policy after implementation and, if in subsequent years, we believe any material changes are appropriate, we will present proposed material changes to you prior to their implementation.

The Program does not provide for any salary reductions for clinical faculty in 2010, although clinical faculty must be fulfilling their clinical obligations consistent with their compensation and the expectations of their chair and the dean in order to receive a merit increase. In subsequent years, a clinical faculty member who declines without good reason to cover a clinical service at the request of his or her chair may receive a salary reduction.

Please let me know if you have questions about the proposed Salary Adjustment Program, or wish to discuss its terms. On behalf of all of the faculty and administration at the School of Medicine who are working to maintain our School's preeminence in academics and research, thank you for your review and support.

PROPOSAL FOR SALARY ADJUSTMENTS 2010

I. Introduction

In January of 2008, after a careful review of practices at peer medical schools, the Academic Excellence Commission (AEC) proposed a series of performance requirements for all research faculty at NYU SOM. The AEC recommended that any faculty member whose effort included a research component should have extramural funding of at least 55% of the portion of that individual's salary that is allocated to research by September 2009. The AEC further recommended salary reductions for any faculty member who did not achieve the recommended levels of extramural funding.

After a community-wide discussion of the AEC's recommendations regarding extramural funding expectations and approval by the Provost, they were adopted, with modifications, as performance standards for research faculty, in March 2008. The Dean's office then consulted with department chairs, the Faculty Council, and other faculty to determine the schedule for implementing the performance standards. In the spring of 2008 departmental chairs met with faculty whose extramural funding was less than 30% of the portion of their salary allocated to research, and developed written individualized plans for increasing their funding that were submitted to the Dean's office. In February 2009 the Dean sent a letter to Faculty announcing the plans for implementation of the extramural funding performance standards. Metrics for salary merit increases and possible salary decreases were outlined in that letter

In addition to these individual meetings, the SOM has provided resources to help faculty obtain extramural funding, including bridge funding, investment in core facilities, and the funding of six Centers of Excellence. In addition, chairs and other administrators have met with individual faculty members to explore opportunities for collaborative research opportunities, increased teaching responsibilities and, for physicians, increased clinical care responsibilities. Members of the faculty who did not feel that they were able to meet the extramural funding expectations had the opportunity to take advantage of a generous Voluntary Transition Program.

In view of the time that has passed since the extramural funding performance standards were adopted, and the opportunities faculty have had to meet those expectations, a salary adjustment program will be implemented in December 2009 for a limited number of faculty. While the AEC recommendation was to reduce salaries for those who had not achieved 55% of salary coverage by that date, the 2010 salary reductions will apply only to those who fail to achieve 20% extramural funding of their research effort. In addition, any reduction will take into account an individual's funding history over 10 years.

II. The Salary Adjustment Program

The salary adjustment program will take an individualized approach to examining and appropriately taking into consideration the specific circumstances of each individual faculty member who did not meet the threshold of 20% extramural funding by September 2009. Each member of the research faculty recently worked with his or her department chair to calculate the required extramural funding, or "REF," that took into account that

faculty member's individual contributions to the SOM. The salary adjustment program will similarly take into account differences among individuals' performance over time. In addition, as in the calculation of REF, there will be room for discretion by the Dean and Chair, once an indicated salary reduction has been calculated, so that if the faculty member is making progress towards obtaining greater extramural funding (e.g., has been submitting grant proposals and getting good scores), there will be an opportunity to adjust the salary reduction by a modest amount.

The metrics described below will be applied to calculate for affected faculty members salary reductions that will be effective in January 2010. The salary adjustment policy will be evaluated during 2010, and may be modified for future years.

Research faculty who did not achieve extramural funding (EF) of at least 20% by September 2009, and who do not qualify for the adjustments described in the Dean's February 9, 2009, letter to the faculty will receive salary reductions effective in January 2010.

The maximum reduction in 2010 will be 20% (the "Maximum Reduction") of the faculty member's total salary in the case of faculty who are (a) full-time in the basic science departments and (b) full time researchers in the clinical departments; for faculty not included in (a) or (b), but whose appointment includes a paid research component, the Maximum Reduction is 20% of the portion of salary that is allocated to research.

The calculation of the salary reduction in each case will take into account the following three variables:

1. Duration of funding <20% of REF for the preceding 10 years (20% rather than 30% is used as the threshold for the duration computation to take into account the fact that, while all research faculty have been expected to support their research, specific thresholds did not exist prior to 2008)
2. Percent of funding shortfall (i.e., amount between 1 and 20%)
3. Salaries in excess of NIH cap for past administrative responsibilities

Calculation of Individual Salary Reduction for 2010

While the Maximal Reduction possible is 20%, the individual faculty reduction may be adjusted based upon: 1) Credit for Prior Years of Funding; and 2) Credit for Current Funding between 1-20%).

1. **Credit for Prior Years of Funding.** Salary reductions will be scaled to account for the length of time that underfunding has occurred. Faculty members with longstanding underfunding will be subject to a larger salary reduction than will occur if the underfunding was of a shorter duration. The scaling will be calculated as follows:
 - *For those with 10 years or more without extramural funding salary coverage: the Maximum Reduction of 20% will apply.*

- *Individuals who have achieved at least 20% extramural salary coverage in one or more of the past 10 years: a credit of 2.0% for each year in prior 10 that extramural funding of at least 20% of salary was secured will be applied to lower the Maximum Reduction. The resulting reduction is designated the Duration Reduction (DR).*
2. **Credit for Current Funding between 1-20%**. Individuals who have extramural funding, but do not achieve the benchmark of 20%, will receive credit applied to the maximal reduction by a proportional amount. This credit will be applied after the Duration Reduction is determined and result in the Individual Salary Reduction, as follows:
- *Individual Salary Reduction is determined as follows: Duration Reduction (as calculated in #1 above) minus the percentage of achieving salary reduction threshold of 20% EF:*

Formula: Individual Salary Reduction = Duration Reduction (DR) - [DR X percentage of 20% EF achieved in FY09]

EXAMPLES

1. Faculty member A has a research effort of 100% and has achieved $\geq 20\%$ EF for 4 out of the prior 10 years. His current FY09 EF is 0.

Total Compensation = \$185,000.

- a. Calculation of Credit for Prior Years of Funding (Duration Reduction)

$$\text{Duration Reduction} = 20\% - (4 \text{ years} \times 2\%)$$

$$\text{Duration Reduction} = 12\%$$

- b. Calculation of Credit for Current Funding

$$\text{Individual Salary Reduction} = 12\% - (12\% \times 0/20)$$

$$\text{Individual Salary Reduction} = 12\%$$

$$\text{Projected Salary} = \$162,800$$

2. Faculty member B has a research effort of 50% and has not achieved $\geq 20\%$ EF in the prior 10 years. His current FY09 EF is 0.

Total Compensation = \$100,000

Research compensation = \$50,000.

- a. Calculation of Credit for Prior Years of Funding (Duration Reduction)

Duration Reduction = 20% - (0 years x 2%)

Duration Reduction = 20%

- b. Calculation of Credit for Current Funding (Maximum Reduction)

Individual Salary Reduction = 20% - (20% X 0/20)

Individual Salary Reduction = 20%

Projected Salary = \$90,000 (reduction applied to research compensation)

3. Faculty member C has a research effort of 98% and has achieved $\geq 20\%$ EF for 8 of the prior 10 years. His current FY09 EF is 18.94%.

Total Compensation = \$125,000

Research Compensation = \$122,500.

- a. Calculation of Credit for Prior Years of Funding (Duration Reduction)

Duration reduction = 20% - (8 years x 2%)

Duration Reduction = 4%

- b. Calculation of Credit for Current Funding (Maximum Reduction)

Individual Salary Reduction = 4% - (4% X 18.94/20)

Individual Salary Reduction = 0.21%

Projected Salary = \$125,000 (no reduction, since < 1%)

4. Faculty member D has a research effort of 100% and has not achieved $\geq 20\%$ EF in the prior 10 years. His current FY09 EF is 0.

Total Compensation = \$150,000

- a. Calculation of Credit for Prior Years of Funding (Duration Reduction)

Duration reduction = 20% - (0 years x 2%)

Duration Reduction = 20%

- b. Calculation of Credit for Current Funding (Maximum Reduction)

Individual Salary Reduction = $20\% - (20\% \times 0/20)$

Individual Salary Reduction = 20%

Projected Salary = \$120,000

3. Salary Adjustments for Clinical Faculty. In order to receive a merit increase, clinical faculty must be fulfilling their clinical obligations consistent with their compensation and the expectations of their chair and the dean. If a faculty member declines without good reason to cover a clinical service at the request of his or her chair, that individual will not be eligible for a salary increase this year, and may experience a decrease in future years if he or she continues to decline the request.

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David W. McLaughlin *Provost*

Robert I. Grossman, M.D.
Dean, School of Medicine
NYU Langone Medical Center

November 3, 2009

Dear Bob,

Thank you for your memorandum of October 22, 2009 regarding the proposed Salary Adjustment Program.

I recognize the strategic importance of the Program for maintaining excellence at the School of Medicine, and understand that the Program was developed in extensive consultation with the faculty.

The Salary Adjustment Program for 2010 has my approval. Should there be any material changes in the Program in subsequent years, I would expect you to present the changes for approval prior to implementation.

I greatly appreciate the efforts that you and your colleagues have put forth in developing this Program and advancing the goals of the School of Medicine.

Sincerely,

A handwritten signature in black ink, appearing to read "David W. McLaughlin".

David W. McLaughlin
Provost

Cc: Robert Berne, Senior Vice President for Health
John Sexton, President

Approval of Salary Adjustment Program for 2010

Monaco, Marie

Sent: Tuesday, December 08, 2009 12:02 PM

To: david.mclaughlin@nyu.edu

Cc: Berne, Robert; john.sexton@nyu.edu; Grossman, Robert

Dear Provost McLaughlin:

The Faculty Council of the School of Medicine was very disappointed to learn of your decision to approve the implementation of the "Salary Adjustment Proposal of 2010" proffered by Dean Grossman and his administration. The majority of the Council feels strongly that the salary reductions planned for some tenured faculty violate the guarantee of "economic security" as stated in the Handbook. Both by precedent and as stated in numerous resolutions passed by NYU governance bodies of the voting faculty it is understood that tenure equates with institutional salary, absent cause or financial exigency. The act of reducing the salary of a tenured faculty member therefore constitutes a breach of contract. Furthermore, while this change in tenure by-laws would apparently be applicable only at the Medical School, it creates a two-tiered tenure apparatus and sets a precedent that could easily be extended to the rest of the University.

Any such drastic alteration of the tenure by-law statement requires the input and, preferably, approval of the faculty governance entities of both the School of Medicine and the University, that is, review and recommendations by the Benefits and Tenure Committee of the School of Medicine, action by the School of Medicine Faculty Council, review and recommendation by the University Faculty Senators Council and action by the Faculty Senators Council. This process was not followed in the present case; a significant modification of the tenure by-laws was enacted unilaterally by the administration.

Under the guidelines that you approved, the departmental chair and/or dean may serially reduce the salary of a tenured faculty member by as much as 20% per year, without any base below which further reductions would be prohibited. Theoretically, then, a tenured faculty's salary could asymptotically approach zero. Such an action would, in essence, amount to a revocation of tenure without due process. Simply obtaining "input from the faculty" does not satisfy the requirements for shared governance that exist at the University.

We respectfully ask that you reconsider the drastic measure you have taken, and instead work within the shared governance structure to resolve this issue.

Sincerely,

The Faculty Council of the NYU School of Medicin

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David W. McLaughlin *Provost*

December 10, 2009

Marie Monaco, Ph.D.
Faculty Council
NYU School of Medicine
Veterans Administration, 16025W
423 East 23rd Street
New York, NY 10012

Dear Dr. Monaco,

Thank you for your December 8 message sent on behalf of the Faculty Council of the NYU School of Medicine about the Salary Adjustment Program for 2010.

I approved the program and communicated that to Dean Grossman on November 3, 2009. I did so after there had been an extended period of consultation with faculty at the School of Medicine. Any future material changes in the program will also require approval by the Provost. This program will advance the goals of the School of Medicine, an objective we all share.

Sincerely,

A handwritten signature in black ink, appearing to read "David W. McLaughlin".

David W. McLaughlin

Cc: Robert Berne
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