

11.6 Right of First Refusal (RFR)

Sessional Instructor, who has been appointed to teach the same degree credit course in a specific department in any three (3) separate Academic Terms and has performed satisfactorily in those Appointments, shall earn the Right of First Refusal (RFR). RFR entitles the Sessional Instructor to receive future offers of Appointment to teach one (1) section of that degree credit course per Academic Term when the course is offered as a Sessional Instructor Appointment.

11.6.1 The position will not be posted prior to determining whether the offer(s) has been accepted by the Sessional Instructor(s) with RFR for the Appointment.

11.6.2 For transition to the 2015-2018 Collective Agreement provisions for RFR, Sessional Instructors who have earned RFR 1 or RFR 2 prior to September 1, 2015 (even if the awarding of RFR1 or RFR2 took place after September 1, 2015) shall maintain their Right of First Refusal. As of January 1, 2016, RFR1 and RFR2 shall be called RFR and subject to the provisions of this Article.

11.6.3 Earning RFR

- (a) For Sessional Instructors who do not have RFR as of January 1, 2016, each Appointment satisfactorily completed since September 1, 2011 will be credited towards the earning of RFR, provided the last time the Sessional Instructor taught the course was no more than five (5) years ago. In order to earn RFR, at least one Appointment must be taught after January 1, 2016.
- (b) The three (3) Academic Terms do not need to be consecutive.
- (c) Teaching two or more sections of a course in one (1) Academic Term counts as one (1) Appointment for the purpose of earning RFR.
- (d) Satisfactory work performance is determined by the Department Head, acting in a manner that is fair and reasonable, and supported by performance evaluations conducted in accordance with Article 16.
- (e) When RFR is first earned, the Dean/Director will endeavor to inform the Sessional Instructor in writing within sixty (60) calendar days of the end of the Academic Term in which it was earned, and send a copy to the Union. If available, Human Resources will provide the

Union with a list of employees with RFR and the course(s) to which it applies after each Academic Term.

- (i) When RFR is not earned after the Sessional Instructor has taught the course three (3) times, the Dean/Director will so inform the Sessional Instructor in writing providing reasons for their decision, and Human Resources will advise the Union in writing.
- (f) RFR will apply separately to Appointments in Distance and Online courses unless otherwise mutually agreed by the University and the Union.
- (g) RFR will not apply to Librarian, hourly paid Music Teacher, Counsellor or other hourly paid Appointments.
- (h) Course content, course title and course number may change. Provided that these are minor changes they will not affect RFR.

11.6.5 Using RFR

- (a) Where more than one Sessional Instructor has RFR for the same degree credit course the sections will be offered in order of seniority.
- (b) In the case of team-taught course, a Sessional Instructor will be eligible to earn and apply RFR for the portion of the course they teach. If the Department Head determines that it is in the best interests of the Department to have one (1) Sessional Instructor teach the whole course, it will be offered to those Sessional Instructors with RFR for a portion of the course in order of seniority, provided they are qualified to teach the whole course.
- (c) RFR applies to an Appointment, not to a specific section, and not more than one (1) section of that course per Academic Term.
- (d) RFR may not be used until the second term following the term in which the Sessional Instructor earned RFR. For example, if a Sessional Instructor earns RFR in the Fall Term, it cannot be used until the following Summer Session Term. If a Sessional Instructor earns RFR in the Winter Term it cannot be used until the following Fall Term and if a Sessional Instructor earns RFR in the Summer Session Term it cannot be used until the following Winter Term.

- (e) The Sessional Instructor may advise the Department Head in writing that if an offer of Appointment is made while the Sessional Instructor is not reachable by email, the offer of Appointment will be deemed accepted.
- (f) It is the responsibility of the Sessional Instructor to keep the Department Head or designate advised of any changes to their availability and preferred sections.

11.6.6 Maintaining/Losing/Revoking RFR

- (a) Continuing satisfactory performance is required to maintain RFR on a course-by-course basis. The Department Head shall normally revoke a Sessional Instructor's RFR for an Appointment if the Sessional Instructor fails to perform satisfactorily in that Appointment as determined by performance evaluation(s) conducted in accordance with Article 16.
 - (i) Prior to making the determination to revoke RFR, the Department Head shall meet with the Sessional Instructor to discuss the matter. The Department Head will provide the Sessional Instructor in writing with reasonable notice of the meeting, the nature of the concerns and the right to Union representation at the meeting, including Union contact information. Where the Sessional Instructor intends to have a Union representative present, they shall so advise the Department Head.
- (b) A Sessional Instructor shall lose their RFR if the Sessional Instructor:
 - (i) is dismissed under Article 17 Discipline and Dismissal;
 - (ii) resigns in writing from a specific course, in which case they will lose RFR for that particular course only;
 - (iii) has not taught the same degree credit course at least once within the last five (5) consecutive years; or
 - (iv) loses their seniority, in accordance with Clause 11.4.
- (c) When RFR is lost or revoked, the Dean/Director will inform the Sessional Instructor in writing and Human Resources will advise the Union in writing.
- (d) A Sessional Instructor who declines an offer will not lose RFR. The offer will be considered declined if the Sessional Instructor does not respond to an offer within five (5) working days of the offer being made. This does not prevent the Sessional Instructor from using

their seniority to apply for other postings, including a posting of the course for which they have declined an offer.

- (e) **If possible, a** Sessional Instructor who has not been appointed to a course for which they have RFR shall be offered an Appointment in that course which is created on short notice in accordance with Clause 11.3.1(a).
- (f) A Sessional Instructor who loses RFR or has their RFR revoked for a specific degree credit course must satisfactorily complete three (3) new Appointments in order to earn RFR for that course. **Where** the Sessional Instructor loses RFR in accordance with Clause 11.6.6(b)(iii), the Sessional Instructor may request, within six (6) weeks of the start of a subsequent Appointment in the course, that the Department Head reinstate their RFR if they satisfactorily complete the course.
- (g) Where a Sessional Instructor accepts an offer of an appointment based on their RFR, the acceptance of the offer completes the usage of the RFR for that course and the Sessional Instructor may not exercise their RFR for an exchange of or alternate appointment to teach a different section of the same course.
- (h) Where a Sessional Instructor **would have been able to use** RFR for a specific course **but** the Department Head offers the Sessional Instructor a different course based on departmental requirements, the fact that the Sessional Instructor did not teach the original course will not be factored into the five (5) year rule as set out in Clause 11.6.6(b)(iii).