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## New York Ruling on Faculty Handbook as a Contract

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A New York State appellate court has reinstated two professors' lawsuit against New York University, which alleges that the institution broke a de facto contract with them. The ruling, though preliminary, is significant in that it suggests that policies outlined in a faculty handbook can amount to a kind of contract.

The lawsuit in question involves two tenured professors in the School of Medicine, Marie Monaco and Herbert Samuels, who saw their salaries involuntarily reduced for not meeting external funding requirements in ways that they argue violated the faculty handbook. Specifically, they say that tenure, as defined by the handbook, ensures academic freedom and economic security and so is incompatible with salary reductions related to external funding metrics. A lower court found that the lawsuit had no merit, as "no writing was submitted to demonstrate that the respondents agreed that its faculty handbook and policy documents could or should have a contractually binding effect." Moreover, Justice Alexander W. Hunter Jr. wrote in his [2015 opinion](#) <sup>[1]</sup>, "even if the handbook were contractually binding, the handbook itself is devoid of any provision which guarantees tenured faculty a particular level of support as a condition of their tenure."

The appellate court, however, [ruled earlier this month](#) <sup>[2]</sup> that, for the purposes of reinstating the lawsuit, Monaco and Samuels "sufficiently alleged that the policies contained in [NYU's] faculty handbook, which 'form part of the essential employment understandings between a member of the faculty and the university,' have the force of contract" and "that they had a mutual understanding with [NYU] that tenured faculty members' salaries may not be involuntarily reduced."

Monaco said via email, "Since many tenured faculty members at NYU are without individual contracts and rely solely on the faculty handbook to define their tenure rights of academic freedom and economic security, it is essential that NYU recognize their obligation to respect the contractual nature of the handbook. Had the lower court ruling stood, many tenured faculty at NYU would have become at-will employees. ... At a time when tenure across the country is under attack, it is nice to have this win."

An NYU spokesperson did not immediately respond to a request for comment. William Herbert, executive director of the National Center for the Study of Collective Bargaining in Higher Education and the Professions at Hunter College of the City University of New York, said, "Oftentimes, New York courts reject the argument that an employment handbook is a binding implied contract." The professors' case was supported by the American Association of University Professors.