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Form and Substance: Standards for Promotion and Retention of Legal Writing Faculty on Clinical Tenure Track

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ARTICLE

FORM AND SUBSTANCE:

STANDARDS FOR PROMOTION
AND RETENTION OF LEGAL
WRITING FACULTY ON CLINICAL
TENURE TRACK

MELISSA H. WERESH*

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INTRODUCTION

In 2005, the American Bar Association Standards for Approval of Law Schools (“ABA Standards”) were amended to more specifically address the form of job security required under Standard 405(c). Standard 405(c) requires that clinical law faculty be afforded a form of job security reasonably similar to tenure.¹ The interpretations to 405(c) were amended to clarify that such form of job security requires one of the following: a separate tenure track; presumptively renewable long-term contracts of at least five years; or some other form of security that will ensure the faculty member academic freedom.² Standard 405(d) addresses the minimum level of job

¹ ABA Standard 405(c) provides:

A law school shall afford to full-time clinical faculty members a form of security of position reasonably similar to tenure, and non-compensatory perquisites reasonably similar to those provided other full-time faculty members. A law school may require these faculty members to meet standards and obligations reasonably similar to those required of other full-time faculty members. However, this Standard does not preclude a limited number of fixed, short-term appointments in a clinical program predominantly staffed by full-time faculty members, or in an experimental program of limited duration.

AMERICAN BAR ASS’N STANDARDS FOR APPROVAL OF LAW SCHOOLS, STANDARD 405(c) (2005-06) [hereinafter ABA STANDARDS], available at <http://www.abanet.org/legaled/standards/chapter4.html> (last visited Dec. 5, 2006).

² ABA Interpretation 405-6 provides:

A form of security of position reasonably similar to tenure includes a separate tenure track or a program of renewable long-term contracts. Under a separate tenure track, a full-time clinical faculty member, after a probationary period reasonably similar to that for other full-time faculty, may be granted tenure. After tenure is granted, the faculty member may be terminated only for good cause, including termination or material modification of the entire clinical program.

A program of renewable long-term contracts shall provide that, after a probationary period reasonably similar to that for other full-time faculty, during which the clinical faculty member may be employed on short-term contracts, the services of a faculty member in a clinical program may be either terminated or continued by the granting of a long-term renewable contract. For the purposes of this Interpretation, “long-term contract” means at least a five-year contract that is presumptively renewable or other arrangement sufficient to ensure academic

security required for legal writing faculty and requires “such security of position and other rights and privileges of faculty membership as may be necessary to (1) attract and retain a faculty that is well qualified to provide legal writing instruction as required by Standard 302(a)(2), and (2) safeguard academic freedom.”³ Notwithstanding the distinction, a law school that provides its writing faculty long-term contracts may elect to treat these faculty members as 405(c) faculty. A variety of benefits associated with that election are discussed *infra*.⁴

To the extent that the ABA accreditation standards require that a school utilize written procedures to evaluate the retention and promotion of faculty employed under 405(c),⁵ this Article compares the written standards employed by schools with 405(c) status for legal writing faculty and concludes that there is no justification for a law school to afford its writing faculty a less secure form of employment than that afforded its clinical faculty. The standards reviewed for such comparison are included in Appendix 1.⁶

freedom. During the initial long-term contract or any renewal period, the contract may be terminated for good cause, including termination or material modification of the entire clinical program.

AMERICAN BAR ASS'N STANDARDS FOR APPROVAL OF LAW SCHOOLS, STANDARD 405(c) (2005-06) [hereinafter ABA INTERPRETATION], *available at* <http://www.abanet.org/legaled/standards/chapter4.html> (last visited Dec. 5, 2006).

³ ABA STANDARD 405(d).

⁴ See *infra* notes 38-46 and accompanying text.

⁵ ABA INTERPRETATION 405-3 requires that “[a] law school shall have a comprehensive system for evaluating candidates for promotion and tenure or other forms of security of position, *including written criteria and procedures that are made available to the faculty*.” ABA INTERPRETATION 405-3 (emphasis added). ABA INTERPRETATION 405-7 provides that:

In determining if the members of the full-time clinical faculty meet standards and obligations reasonably similar to those provided for other full-time faculty, competence in the areas of teaching and scholarly research and writing should be judged in terms of the responsibilities of clinical faculty. *A law school should develop criteria for retention, promotion, and security of employment of full-time clinical faculty.*

ABA INTERPRETATION 405-7 (emphasis added).

⁶ In order to obtain standards for comparison, I contacted schools that reported having writing faculty on Standard 405(c) contracts. This information was obtained from a legal writing listserv post, E-mail from Gail Stephenson, Director of Legal Analysis & Writing and Assistant Professor of Law, Southern University Law Center, gstephenson@sulc.edu, to LRWPROF listserv, LRWPROF-L@LISTSERV.IUPUI.EDU, *Law Schools with 405(c)status or tenure track* (June 14, 2006) (on file with author) [hereinafter Stephenson E-mail]. Appendix 1 (“App. 1”) includes standards from the following law schools: Albany Law School [hereinafter Albany]; American University,

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This Article first briefly traces the development of legal writing programs and the various forms of job security currently afforded to legal writing faculty.⁷ It then examines standards for promotion and retention of legal writing faculty eligible for long-term contracts under 405(c), specifically in terms of titles, rank, and term of employment contracts, and the categories of criteria applicable to promotion for each term of employment.⁸ Finally, the Article examines some of the procedural aspects associated with promotion and retention of legal writing faculty under a 405(c) model, particularly in terms of evaluation and objection procedures.⁹

I. BRIEF HISTORY OF LEGAL RESEARCH AND WRITING (LRW) PROFESSIONALS

Legal writing programs have developed considerably in the past thirty-five years. Similar to positions of employment for clinical law faculty,¹⁰ research and writing faculty positions (as

Washington College of Law [hereinafter American/WCL]; Cleveland State University, Cleveland-Marshall College of Law [hereinafter Cleveland-Marshall]; University of Dayton School of Law [hereinafter Dayton]; DePaul University College of Law [hereinafter DePaul]; Drake University Law School [hereinafter Drake]; Hofstra University School of Law [hereinafter Hofstra]; Indiana School of Law–Indianapolis [hereinafter Indianapolis]; Loyola Law School–Los Angeles [hereinafter Loyola/LA]; Shepard Broad Law Center, Nova Southeastern University [hereinafter Nova Southeastern]; University of Oregon School of Law [hereinafter Oregon]; St. John’s University School of Law [hereinafter St. John’s]; Southern Illinois University School of Law [hereinafter SIU]; Temple University, Beasley School of Law [hereinafter Temple]; University of Florida, Fredric G. Levin College of Law [hereinafter Univ. of Fla.]; University of Toledo College of Law [hereinafter Univ. of Toledo].

⁷ See *infra* notes 10-46 and accompanying text.

⁸ See *infra* notes 47-221 and accompanying text.

⁹ See *infra* notes 222-229 and accompanying text.

¹⁰ See Margaret Martin Barry, Jon C. Dubin & Peter A. Joy, *Clinical Education for this Millennium: The Third Wave*, 7 CLINICAL L. REV. 1 (2000). In tracing the development of clinical legal education, the authors note that the “dearth of clinical legal education programs in the first half of the twentieth century” could be attributed to the following conditions:

First, law schools were distinguishing themselves from apprenticeships, and clinical legal education efforts to create “model law offices” as part of law school education did not further this market differentiation. Second, law schools of this era were terribly underfunded and clinical legal education courses with intensive faculty supervision were not as economical as large classes employing the casebook Socratic method. Third, law school teachers of this era disagreed about the value—and feasibility—of teaching lawyering skills other than legal analysis. . . . Fourth, the period from the 1920’s to the 1940’s was marked by ABA and AALS efforts to create and raise standards for law schools, and none of

distinct from employment positions for traditional, tenured, doctrinal faculty) are a relatively new development in legal education. In one of the first studies of legal writing programs in the United States, published in 1973 as a result of what appears to be the first survey of legal writing instruction, Professor Marjorie Rombauer traced the development of legal research and writing courses in legal education.¹¹ She noted that the earliest courses in research and writing were “what the name implies, a joinder of bibliography instruction with writing experience, frequently with an added mixture of remedial objectives related to deficiencies in legal education perceived during the post-World-War-II ferment.”¹² While the bibliography course, which “dealt with [the] description and use of law books,”¹³ was a firmly established component of the legal education curriculum during the early part of the twentieth century,¹⁴ courses in “legal writing” and “legal method” first appeared as a separate category of instruction in 1947.¹⁵ In an effort to examine both the content of first-year research and writing courses, as well as staffing models, Rombauer surveyed law schools. Summarizing her findings with regard to the staffing model, she reported that, of the sixty-three schools responding, sixteen used students in combination with faculty members and/or attorneys, three relied exclusively on attorney instruction, twelve used “short-term instructors,” and the remaining schools used primarily

these standards focused on encouraging or requiring clinical legal education experiences.

Id. at 8-9 (citations omitted). However, from the 1960's through the late 1990's:

[C]linical legal education solidified and expanded its foothold in the academy. The factors that contributed to this transformation included demands for social relevance in law school, the development of clinical teaching methodology, the emergence of external funding to start and expand clinical programs, and an increase in the number of faculty capable of and interested in teaching clinical courses.

Id. at 12.

¹¹ Marjorie Dick Rombauer, *First-Year Legal Research and Writing: Then and Now*, 25 J. LEGAL EDUC. 538 (1973).

¹² *Id.* at 539.

¹³ *Id.* at 540.

¹⁴ *Id.* at 539-540 (noting that the bibliography course first appeared around the turn of the century).

¹⁵ *Id.* at 540-541 (noting that “Legal Writing” and “Legal Methods” were first included as a listed course category in the Association of American Law School's publication, *Directory of Teachers in Member School*, in 1947).

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“faculty members, both regular and library.”¹⁶

In the thirty-some years that have passed since Rombauer’s study, much has changed with respect to legal writing instruction, both in terms of the content of instruction¹⁷ and the staffing models for instruction. In tracing the development of the legal writing profession, two scholars noted that early writing programs were understaffed and lacked sufficient resources for pedagogical innovation.¹⁸ “[P]rograms were staffed primarily by teachers with low status, low pay, greater teaching responsibilities, and little or no support for scholarship. . . . LRW professors’ status has left little time for reflection or exploration.”¹⁹ During the last two decades, however, the pedagogical approach has moved from product-oriented to process-oriented, with an emphasis on teaching analysis rather than focusing on correcting student errors of grammar or syntax:

LRW became a course about legal analysis—how to critically analyze legal problems and, most importantly, how to convey the analysis to others in writing, as lawyers are called upon to do in their work. Rather than merely correcting papers after they were written, LRW professors began to intervene in the writing process, giving substantial attention to individual students’ drafts through critiques and conferences on work in progress. We now recognize that we are teaching students to write, not merely correcting the writing mistakes they have already made.²⁰

In terms of staffing models for writing instruction, the profession has similarly evolved. In 2003, Sue Liemer and Jan Levine collected data on the design and staffing of legal writing

¹⁶ *Id.* at 543-544.

¹⁷ Jo Anne Durako, Kathryn M. Stanchi, Diane Penneys Edelman, Brett M. Amdur, Lorrain S.C. Brown, & Rebecca L. Connelly, *From Product to Process: Evolution of a Legal Writing Program*, 58 U. PITT. L. REV. 719 (1997) (noting that the traditional form of writing instruction was product-focused, but that, as a result of increased resources devoted to writing instruction in law schools, the more labor-intensive, process-oriented pedagogy is becoming more common); see also J. Christopher Rideout & Jill J. Ramsfield, *Legal Writing: A Revised View*, 69 WASH. L. REV. 35 (1994) (discussing traditional and revised views on legal writing pedagogy).

¹⁸ Ellie Margolis & Susan L. DeJarnatt, *Moving Beyond Product to Process: Building a Better LRW Program*, 46 SANTA CLARA L. REV. 93, 95-96 (2005).

¹⁹ *Id.* at 95-96 (citations omitted).

²⁰ *Id.* at 98-99 (citations omitted).

programs, including data from national surveys of legal writing programs,²¹ as well as from listserv requests for information, internet research, and individual communication.²² Liemer and Levine reported that, out of the 190 schools investigated, 133 (seventy percent) employed full-time legal writing professors, thirty-five (eighteen percent) employed adjuncts to teach legal writing, fourteen (seven percent) used doctrinal faculty for legal writing instruction, five (three percent) relied on student teachers, and three (two percent) were unknown.²³

With regard to job security associated with long-term legal writing positions, there have been significant advances as well. At this point, there are four categories of employment security for legal writing faculty.²⁴ First, writing faculty with tenure or on a tenure track are employed at approximately twenty-five law schools.²⁵ Next are faculty employed under ABA Standard 405(c). Professors who are employed under 405(c) are entitled to a “form of [job] security . . . reasonably similar to tenure,”²⁶ which requires either a separate tenure track, long-term, presumptively renewable contracts of at least five years, or some “other arrangement sufficient to ensure academic freedom.”²⁷ As of 2006, at least forty-three schools employed legal writing faculty under a 405(c) model.²⁸ Third are writing

²¹ The Association of Legal Writing Directors, together with the Legal Writing Institute (“ALWD/LWI”), conducts an annual, national survey of legal writing programs. The survey collects data on program design, curriculum, salary, workload, and status issues and is available at <http://www.lwionline.org/survey/surveyresults2006.pdf> (last visited Dec. 5, 2006) [hereinafter 2006 Survey].

²² Susan P. Liemer & Jan M. Levine, *Legal Research and Writing: What Schools are Doing, and Who is Doing the Teaching (Three Years Later)*, 9 SCRIBES J. LEGAL WRITING 113 (2003). The article was an update to an earlier study and article published by Professor Levine, Jan M. Levine, *Legal Research and Writing: What Schools are Doing, and Who is Doing the Teaching*, 7 SCRIBES J. LEGAL WRITING 51 (1998-2000).

²³ Liemer & Levine, *supra* note 22, at 120.

²⁴ The four categories noted apply to full-time legal research and writing faculty. According to the 2006 Survey, most schools report using full-time, non-tenure track teachers. 2006 Survey, *supra* note 21, Question 10. However, at some schools, legal research and writing is taught by students and/or adjuncts, or some hybrid model. For purposes of comparison in this article, however, full-time faculty models are reviewed.

²⁵ 2006 Survey, *supra* note 21, Question 65.

²⁶ ABA STANDARD 405(c), *supra* note 1.

²⁷ ABA INTERPRETATION 405-6, *supra* note 2.

²⁸ Stephenson E-mail, *supra* note 6. Precise numbers for 405(c) faculty are difficult to obtain from the 2006 Survey (Question 65), which allows schools to select all staffing models that apply. According to the 2006 Survey, twenty-eight schools

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faculty who are entitled to either long-term or continuing short-term contracts, but who do not have 405(c) status. These writing faculty fall generally under ABA Standard 405(d), which requires that they be afforded “such security of position and other rights and privileges of faculty membership as may be necessary to (1) attract and retain a faculty that is well qualified to provide legal writing instruction as required by Standard 302(a)(2), and (2) safeguard academic freedom.”²⁹ In 2006, fifty-four schools employed writing faculty on one-year contracts, twenty on two-year contracts, and fifty-three on contracts of three years or more.³⁰ It should be noted that some of these faculty may be considered 405(c) faculty if the contract period reported references an initial, probationary contract prior to the award of a 405(c) contract, or if the contract of three years or more is at least five years and presumptively renewable.³¹

Finally, legal writing faculty at some institutions have been subject to a cap, or a limitation on the number of years they may be employed at a school.³² According to the 2006 survey, there were eleven schools that reported a limit to the total number of years that a writing faculty member might

reported their faculty members as 405(c), and another ten reported their faculty as 405(c) track. 2006 Survey, *supra* note 21, Question 65 (indicating that schools should mark all that apply). Moreover, in the 2006 Survey, sixty-three schools reported that, prior to August 2005, the contracts provided to writing faculty satisfied ABA Standard 405(c). *Id.* at Hot Topic (“HT”) Question 19. Since the amendments, twenty-one schools are considering changes to the contracts to meet the new standard, sixteen schools have changed their contract length from three to five years to meet the standard, five schools have made their contracts presumptively renewable to meet the standard, and nine schools have made some other modification to ensure academic freedom. *Id.* at HT Question 20. Additionally, four schools changed the status of their writing faculty from 405(c) to tenured or tenure-track faculty, and twenty-one additional schools reported that they were considering changes to the contract status of legal writing faculty. *Id.*

²⁹ ABA STANDARD 405(d).

³⁰ 2006 Survey, *supra* note 21, Question 65.

³¹ As noted *supra* note 28, 2006 Survey Question 65 allows schools to mark all staffing models that apply. Therefore, an initial contract period of one year for a 405(c)-track faculty member would be noted on Question 65. Similarly, schools with 405(c) status would mark the category “Contracts of three years or more.”

³² See Jo Anne Durako, *Dismantling Hierarchies: Occupational Segregation of Legal Writing Faculty in Law School: Separate and Unequal*, 73 UMKC L. REV. 253, n.99 (2004) (noting that caps were traditionally used at law schools “to keep writing salaries artificially depressed by the need to hire new teachers at low starting salaries.”).

teach.³³ These programs, however, must now demonstrate that they are legitimate fellowship programs.³⁴ In 2004, the legal writing community made efforts to remove caps at all institutions.³⁵ This effort, in part, resulted in a modification to ABA Interpretation 405-9, which now provides “[s]ubsection (d) of this Standard does not preclude the use of short-term contracts for legal writing teachers, nor does it preclude law schools from offering fellowship programs designed to produce candidates for full-time teaching by offering individuals supervised teaching experience.”³⁶ In addressing the amendment, the ABA clarified that the “revision eliminates the reference to non-renewal in Interpretation 405-9, thereby removing what might have been viewed as an endorsement of non-renewable contracts.”³⁷ Consequently, under the current ABA rules, all legal writing faculty at ABA-accredited institutions that do not have legitimate fellowship programs should be afforded, at a minimum, a form of job security necessary to safeguard academic freedom.

II. BENEFITS OF 405(C) STATUS FOR WRITING FACULTY

There are a variety of benefits to a law school that elects to employ its writing faculty under Standard 405(c) as opposed to 405(d). Because ABA Standard 405(d) requires that legal

³³ 2006 Survey, *supra* note 21, Question 66.

³⁴ See ABA INTERPRETATION 405-9.

³⁵ On August 23, 2004, the Legal Writing Institute (“LWI”) and the Association of Legal Writing Directors (“ALWD”) released a joint report and recommendation (“Report”) to the ABA Standards Review Committee and the ABA Section of Legal Education and Admissions to the Bar, *available at* <http://www.alwd.org/>. In the Report, ALWD/LWI asked that Standard 405 be amended to provide legal writing faculty the same job security afforded clinical faculty, arguing that the revision would give rise to educational enhancements similar to those occurring in clinical legal education. The primary goal of the Report was to eliminate ABA Standard 405(d) and ABA Interpretation 405-9 (which had been used to justify caps in employment for legal writing faculty). Alternatively, the Report asked that the ABA modify ABA Interpretation 405-9 to apply to only bona fide fellowship programs. The 2005 revisions to the standards did expressly limit ABA Interpretation 405-9 to schools with fellowship programs.

³⁶ ABA INTERPRETATION 405-9.

³⁷ Memorandum from John A. Sebert, Consultant on Legal Education, to Deans of ABA-Approved Law Schools et. al. (Dec. 10, 2004) [hereinafter Sebert Memorandum], *available at* <http://www.abanet.org/legaled/standards/standardsdocuments/chapter4proposedchange.s.doc> (last visited Dec. 5, 2006).

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writing faculty be afforded “such security of position and other rights and privileges of faculty membership as may be necessary to (1) attract and retain a faculty that is well qualified to provide legal writing instruction . . . and (2) safeguard academic freedom,”³⁸ schools should consider whether their staffing model for writing instruction is market competitive and protective of academic freedom. According to the 2006 Association of Legal Writing Directors and the Legal Writing Institute (“ALWD/LWI”) survey, the full-time, non-tenure track faculty model is the most common staffing model for writing instruction.³⁹ Most of these full time instructors have some form of contract, varying in length from one to seven years.⁴⁰ To the extent that some form of contract model is the norm of employment for writing faculty,⁴¹ a long-term contract program model is competitive and therefore likely to attract and retain quality faculty.

Indeed, the enhancements to the required form of job security afforded clinical faculty under Standard 405(c) were deemed necessary, in part, to ensure that a law school could attract and retain quality clinical faculty.⁴² Lack of genuine, contractual job security is directly related to high turnover, which is in turn related to a diminished educational environment. As two scholars have noted,

Staffing models contribute to turnover. The two most popular models for staffing legal writing programs are the full-time non-tenure track model and the adjunct model. . . .

³⁸ ABA STANDARD 405(d).

³⁹ 2006 Survey, *supra* note 21, Question 10.

⁴⁰ *Id.* at Question 65 (note that for schools identifying faculty on contracts of one, two, or three years, it is possible such faculty are eligible for longer term contracts, whether or not such contracts satisfy ABA Standard 405(c)). See also Stephenson E-mail, *supra* note 6 (noting schools offering contracts of six and seven years).

⁴¹ Emily Grant, *Toward a Deeper Understanding of Legal Research and Writing as a Developing Profession*, 27 VT. L. REV. 371, 379 (2003) (confirming that “[t]he predominant model for hiring full-time LRW instructors involves renewable contracts.”).

⁴² Sebert Memorandum, *supra* note 37. In the Memorandum the authors contend that the Accreditation Committee practice of finding three-year contracts with no presumption of renewal as “reasonably similar to tenure” was inconsistent with the meaning of Standard 405(c). *Id.* at 4. The revisions, which require the provision of presumptively renewable, five-year contracts for clinical faculty “reflect[] the pattern for post-tenure review that is evolving at many schools” and “ensure that law schools can attract and retain quality full-time clinical faculty and thereby strengthen the clinical component of the law school curriculum.” *Id.*

In all models except the full-time tenure track model, the turnover is high. Establishing a sound pedagogy is next to impossible under these circumstances, which may explain why so many schools have attempted to restructure their programs each year. Instead, law schools should consider hiring and training professors who have the job security that allows them to develop programs and generate scholarship in legal writing.⁴³

Consequently, since both Standard 405(c) and Standard 405(d) require a form of job security necessary to attract and retain quality faculty and ensure those faculty academic freedom, there is no reason to afford writing faculty a less secure form of employment than that considered necessary for clinical faculty.

There are additional benefits to providing 405(c) status to writing faculty. For example, under Standard 402, an ABA-accredited law school must ensure an adequate ratio between the number of full-time students and the number of full-time faculty members, defined as that faculty “on tenure track or its equivalent.”⁴⁴ For purposes of computing the ratios, each member of the full-time faculty counts as one, while “[a]dditional teaching resources,” including “legal writing instructors not on tenure track or its equivalent,” count as 0.7.⁴⁵ Further, while

[n]o limit is imposed on the total number of teachers that a school may employ as additional teaching resources, . . . these additional teaching resources shall be counted at a fraction of less than 1 and may constitute in the aggregate up to 20 percent of the full-time faculty for purposes of calculating the student/faculty ratio.⁴⁶

Therefore, where a school employs writing faculty on long-term contracts, there is an incentive to afford the writing faculty 405(c) status in order to avoid the twenty percent limitation and take advantage of the full point per faculty member for purposes of ratio calculation.

⁴³ Rideout & Ramsfield, *supra* note 17, at 87-88 (citations omitted).

⁴⁴ ABA INTERPRETATION 402-1(1).

⁴⁵ ABA INTERPRETATION 402-1(1)(A)(ii).

⁴⁶ ABA INTERPRETATION 402-1(1).

III. STANDARDS REVIEW

According to ABA Interpretation 405-3, “A law school shall have a comprehensive system for evaluating candidates for promotion and tenure or other forms of security of position, including written criteria and procedures that are made available to the faculty.” Further, under Interpretation 405-7:

In determining if the members of the full-time clinical faculty meet standards and obligations reasonably similar to those provided for other full-time faculty, competence in the areas of teaching and scholarly research and writing should be judged in terms of the responsibilities of clinical faculty. A law school should develop criteria for retention, promotion, and security of employment of full-time clinical faculty.

Consequently, for those schools that employ writing professors under a 405(c) model, there should be in place a written procedure for evaluating promotion and retention decisions.

This Article compares several aspects of standards associated with promotion and retention of legal writing faculty. First, the variety of academic titles as well as the rank and term associated with those titles will be examined. Next, the criteria for promotion and retention will be evaluated. Specifically, criteria associated with teaching, service, scholarship and recognition within the field will be compared. Also, a criterion associated more commonly with legal writing faculty than other legal academic faculty, known as “program contributions” or “teamwork,” will be examined. Finally, the article will review procedures for evaluation of faculty, annual reports by faculty, renewal standards and objection procedures.

A. ACADEMIC TITLES, RANK, AND TERM

Legal writing faculty on long-term contracts at some schools carry the same academic title as their doctrinal, tenured colleagues; namely, that of Assistant/Associate Professor of Law.⁴⁷ Other institutions employ academic titles for legal writing faculty that are distinguishable from the academic titles for tenured, doctrinal faculty. At some schools,

⁴⁷ Drake, App. 1, No. 6, at 353; Nova Southeastern, App. 1, No. 10, at 402.

members of the legal writing faculty are considered clinical professors and bear that academic designation.⁴⁸ Many schools delineate legal writing faculty by course content. Faculty members who teach legal writing are known variously as: Legal Writing Professor/Instructor;⁴⁹ Assistant/Associate Professor of Legal Writing⁵⁰/Lawyering Skills;⁵¹ Instructor of Legal Analysis, Research and Communication (“LARC”);⁵² and, Legal Rhetoric Instructor.⁵³

At most institutions, the rank and term of academic title mirrors that of doctrinal faculty. At these institutions, the academic progression is from Assistant to Associate to full Professor of Law.⁵⁴ The initial employment period generally associated with the assistant or instructor rank is typically one year.⁵⁵ The associate level contract may be two⁵⁶ to three⁵⁷ years in length and, where used, typically mirrors the rank and term of appointment for members of the tenured faculty.⁵⁸ Consistent with the modifications to 405(c), once the faculty member earns the final promotion to full Professor of Law, the faculty member is awarded a (minimum) five-year, presumptively renewable contract.⁵⁹ There are some notable variations on the ABA-required model. For example, Georgetown University Law Center and Indiana School of Law/Indianapolis award seven-year contracts to full professors⁶⁰ and St. John’s University awards seven-year rolling contracts to full professors.⁶¹ Temple University, James E. Beasley School of Law, awards six-year contracts with the

⁴⁸ Loyola/LA, App. 1, No. 9, at 399; SIU, App. 1, No. 13, at 429. Note that, where legal writing faculty are also considered members of the clinical faculty, they are categorically covered by ABA Standard 405(c).

⁴⁹ Cleveland Marshall, App. 1, No. 3, at 339; Oregon, App. 1, No. 11, at 419.

⁵⁰ Hofstra, App. 1, No. 7, at 365; St. John’s, App. 1, No. 12, at 426.

⁵¹ Dayton, App. 1, No. 4, at 345.

⁵² DePaul, App. 1, No. 5, at 351.

⁵³ American/WCL, App. 1, No. 2, at 335.

⁵⁴ See Drake, App. 1, No. 6, at 354; St. John’s, App. 1, No. 12, at 426.

⁵⁵ See Drake, App. 1, No. 6, at 354; St. John’s, App. 1, No. 12, at 426.

⁵⁶ See Hofstra, App. 1, No. 7, at 364.

⁵⁷ See Drake, App. 1, No. 6, at 354; St. John’s, App. 1, No. 12, at 426.

⁵⁸ See Drake, App. 1, No. 6, at 354-55; Hofstra, App. 1, No. 7, at 364-65.

⁵⁹ See, e.g., Drake, App. 1, No. 6, at 354. See also ABA STANDARD 405(c) (requiring a minimum five-year, presumptively renewable contract, or some other form of job security that ensures the faculty member academic freedom).

⁶⁰ Stephenson E-mail, *supra* note 6.

⁶¹ See generally St. John’s, App. 1, No. 12, at 425.

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final, full professor promotion.⁶² Hamline University awards rolling three-year contracts that renew automatically each year.⁶³

To the extent that the ABA requires instruction in legal research and writing as an essential component of legal education,⁶⁴ and because it is undisputed that legal analysis and the communication of that analysis is a competency that must be achieved in legal education,⁶⁵ there is no justification to distinguish titles between doctrinal and legal writing faculty. Indeed, because the skills taught in the required legal research and writing curriculum reinforce – if not enhance – those doctrinal and analytical concepts examined in other typical doctrinal courses, equality with respect to titles reinforces, rather than undermines, commonly recognized goals of legal education. Therefore, individuals who have the opportunity to designate titles for legal research and writing faculty should examine carefully the implications associated

⁶² Stephenson E-mail, *supra* note 6.

⁶³ *Id.*

⁶⁴ ABA STANDARD 302 addresses the curricular requirements of a law school, and provides:

(a) A law school shall require that each student receive substantial instruction in:

- (1) the substantive law generally regarded as necessary to effective and responsible participation in the legal profession;
- (2) *legal analysis and reasoning, legal research, problem solving, and oral communication*;
- (3) *writing in a legal context, including at least one rigorous writing experience in the first year and at least one additional rigorous writing experience after the first year*;
- (4) other professional skills generally regarded as necessary for effective and responsible participation in the legal profession; and
- (5) the history, goals, structure, values, rules, and responsibilities of the legal profession and its members.

ABA STANDARD 302 (emphasis added), available at <http://www.abanet.org/legaled/standards/chapter3.html> (last visited Dec. 5, 2006).

⁶⁵ According to the MacCrate Report, law students should receive instruction in ten essential skills and values: the report identified ten fundamental lawyering skills and four professional values. The ten essential skills include: 1) problem solving; 2) legal analysis and reasoning; 3) legal research; 4) factual investigation; 5) communication; 6) counseling; 7) negotiation; 8) litigation and ADR resolution procedures; 9) organization and management of legal work; and 10) recognizing and resolving legal dilemmas. AMERICAN BAR ASS'N SECTION ON LEGAL EDUCATION AND ADMISSION TO THE BAR, *Legal Education and Professional Development – An Educational Continuum, Report of the Task Force on Law School and the Profession: Narrowing the Gap* (1992) [hereinafter MacCrate Report].

with distinct titles, particularly those which might reinforce a nominalization of the subject matter or the professor imparting it.⁶⁶

The Assistant/Associate Professor of Law title has no negative implications for members of the legal writing faculty. To the extent that a law school supports and encourages this essential and required curricular content, and to the extent that rigorous promotion and retention standards are employed to ensure quality of instruction, there is no justification for nominalizing or otherwise distinguishing this category of faculty. With regard to the rank and progression of appointment, there is similarly no reason to deviate from the rank and progression of other faculty members.

⁶⁶ Many authors have examined the implications of distinct titles for legal writing faculty, both for the faculty member personally and on her ability to achieve credibility in the classroom. See, e.g., Durako, *supra* note 32.

Legal writing teachers may wear the badge of segregation through their distinctive academic titles. Their titles may specify the subject they teach by labeling them Professor of Legal Writing. These full-time faculty are not accorded the traditional title of Professor of Law, signaling some limitation on their abilities or inherent inferiority.

Id. at 258 (citation omitted). See also Peter Brandon Bayer, *A Plea for Rationality and Decency: The Disparate Treatment of Legal Writing Faculties as a Violation of Both Equal Protection and Professional Ethics*, 39 DUQ. L. REV. 329, 360 (arguing that inferior titles, and particularly the discouragement of the "professor" title, constitutes discrimination against writing faculty); Jo Anne Durako, *Second-Class Citizens in the Pink Ghetto: Gender Bias in Legal Writing*, 50 J. LEGAL EDUC. 562, 575-76 (2000) (noting that legal writing faculty, particularly women professors, have less prestigious titles than their male law faculty counterparts); Kathryn M. Stanchi, *Who Next, The Janitors? A Socio-Feminist Critique of the Status Hierarchy of Law Professors*, 73 UMKC L. REV. 467, 487 (2004) (asserting that the "law school hierarchy has fought to monopolize and keep exclusive the revered title of 'professor' for its doctrinal faculty. The overwhelming majority of law schools refuse to give legal writing professors the unqualified title of professor, associate professor or assistant professor of law. Instead, most legal writing professors are given either the lesser title of 'lecturer' or 'instructor' or are given the qualified title of 'clinical' professor or professor 'of legal writing.'" (citations omitted); Suzanne E. Rowe & Susan P. Liemer, *One Small Step: Beginning the Process of Institutional Change to Integrate the Law School Curriculum*, 1 J. ALWD 218 n.7 (2002) (advocating for an integration law school curricula and noting as one element of the distinction the difference in titles between doctrinal and skills faculty); Jan M. Levine, *Leveling the Hill of Sisypheus: Becoming a Professor of Legal Writing*, 26 FLA. ST. U. L. REV. 1067, 1095 (1991) (noting that the "very titles of the positions proclaim the second-class status of many legal writing jobs"); Grant, *supra* note 41, at 392 (noting that "[l]aw schools express hostility toward LRW professors and courses in small, seemingly insignificant, gestures. Such 'petty indignities' subliminally encourage the lack of status and respect for LRW as a profession. LRW professors are often not privileged enough to use the title of 'Professor,' but rather are addressed as 'Mr./Ms. So-and-So' or even by their first names.") (citations omitted).

B. PROMOTION CRITERIA

The primary criteria employed to advance from the initial academic rank (Assistant) to the intermediate rank (Associate) are teaching and service. Many schools also employ a criterion characterized variously as “Program Contributions,”⁶⁷ “Team Work,”⁶⁸ “Service to the [LRW] Program,”⁶⁹ or “Institutional Citizenry.”⁷⁰ In order to be promoted to the final academic rank (full Professor, or long-term contract level), scholarship may be required.⁷¹

1. *Teaching*

Most standards explicitly recognize teaching as the primary criterion for promotion, both to the Associate and full Professor rank. American University, Washington College of Law (“American/WCL”) standards provide “[c]ontribution to law teaching shall be the most important criterion to be assessed in evaluating Legal Rhetoric Instructors, who must meet the standard of high quality in teaching ability.”⁷² The Cleveland-Marshall standards similarly provide “[t]eaching skill will be the main consideration for evaluating the performance of a Legal Writing Professor for contract renewal.”⁷³ Temple University’s standards provide “[t]he primary criteria for promotion to both ranks are the excellence of the LRW Faculty Member’s teaching of legal research and writing and the LRW Faculty Member’s contribution to the development of the LRW Program.”⁷⁴ The University of Dayton School of Law standards note, “Teaching ability is the primary factor to be considered in evaluating lawyering skills staff members for hiring, retention, and promotion.”⁷⁵ The St. John’s standards state, “Teaching performance is the primary

⁶⁷ Drake, App. 1, No. 6, at 356 (“Program Contributions”); SIU, App. 1, No. 13, at 439 (“Lawyering Skills Teaching”); Univ. of Fla., App. 1, No. 15, at 456 (“Service to the College of Law”).

⁶⁸ Cleveland Marshall, App. 1, No. 3, at 342 (“Team Work”).

⁶⁹ Dayton, App. 1, No. 4, at 349 (“Service to the Legal Profession Program”).

⁷⁰ DePaul, App. 1, No. 5, at 352.

⁷¹ See, e.g., Drake, App. 1, No. 6, at 355.

⁷² American/WCL, App. 1, No. 2, at 335.

⁷³ Cleveland-Marshall, App. 1, No. 3, at 340.

⁷⁴ Temple, App. 1, No. 14, at 449.

⁷⁵ Dayton, App. 1, No. 4, at 348.

consideration in evaluating members of the Legal Writing faculty.”⁷⁶

Most of the standards reviewed attempt to articulate specific indicia that demonstrate excellence in teaching. This serves as a barometer for both the faculty member affected as well as the director or committee in charge of assessing satisfaction of the standard. Many of the teaching standards reviewed speak directly to excellence in legal writing instruction, as opposed to a more generalized description of teaching excellence. To that end, many standards are directed at specific aspects of legal research and writing instruction, including classroom instruction, development of course materials and writing problems, evaluating student work, and conducting student conferences. The following illustrate more specific and descriptive teaching standards for legal research and writing faculty.

a. Classroom and Individual Instruction

Many standards articulate the benchmark against which the legal writing faculty member’s performance in, and in preparation for, the classroom is assessed. Most of the standards are performance-based, meaning they target the performance of the professor. A few standards are outcome-based, meaning they target some measurable assessment of whether the students learned requisite material as a result of the professor’s teaching technique. For example, the DePaul standards question whether the professor has demonstrated “[s]uccess in bringing students to an acceptable level of performance with respect to the skills the course is designed to teach [and] [p]roficiency in stimulating students’ critical thinking, synthesis ability, analytic reasoning ability, and communication.”⁷⁷

In terms of performance criteria, many standards address the level of preparation for, and organization of, classroom instruction.⁷⁸ To that end, the Cleveland-Marshall standards require that the professor demonstrate a “command of legal

⁷⁶ St. John’s, App. 1, No. 12, at 425.

⁷⁷ DePaul, App. 1, No. 5, at 351.

⁷⁸ Cleveland-Marshall, App. 1, No. 3, at 340-41.

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analysis, legal writing, legal research, and advocacy.”⁷⁹ The professor must also be

[f]ocused and well prepared for class, organized and effective, [and must] [d]efine[] the goals to be accomplished, [i]ncorporate[] effective methods of conveying those goals to the students relying on techniques appropriate for teaching writing, analysis and research[, and] [o]ffer[] insights to the students that they would not get from reading the text alone.⁸⁰

The St. John’s standards include the following characteristics as exemplifying teaching excellence: “(1) [a]bility to communicate; (2) [p]reparation for class; (3) [b]readth and depth of knowledge relevant to the field of legal research and writing; (4) [t]houghtful organization of individual class sessions and the overall course content; (5) [a]bility to stimulate student interest and effort; [and] (6) [a]bility to effectively direct a classroom meeting”⁸¹ Performance criteria also require professors to demonstrate the ability to inspire students⁸² and stimulate thinking,⁸³ and demonstrate an interest in students’ development and welfare.⁸⁴

Several of the standards refer to the professor’s obligation to keep current with respect to teaching methodology, requiring that professors “improve[], through refinement, development or new application, legal writing teaching methodology”;⁸⁵ “[k]eep[] the course updated, based on awareness of trends in the field”;⁸⁶ “use a range of creative pedagogical methodologies that help students with different learning styles”;⁸⁷ and “demonstrate[e] familiarity with the published scholarship

⁷⁹ *Id.* at 340.

⁸⁰ *Id.* See also Hofstra, App. 1, No. 7, at 372 (considering an evaluation of “classroom teaching, including developing goals for individual classes and using effective methods to accomplish them”).

⁸¹ St. John’s, App. 1, No. 12, at 425-26.

⁸² See, e.g., Dayton, App. 1, No. 4, at 348.

⁸³ See, e.g., Univ. of Fla., App. 1, No. 15, at 454.

⁸⁴ See, e.g., Drake, App. 1, No. 6, at 356.

⁸⁵ *Id.*

⁸⁶ Oregon, App. 1, No. 11, at 420.

⁸⁷ Dayton, App. 1, No. 4, at 348.

about the teaching of legal writing,”⁸⁸ and a “[b]readth and depth of knowledge relevant to the field of legal research and writing.”⁸⁹

b. Designing Writing Assignments

Because the substance of legal research and writing instruction typically requires the development of effective research and writing exercises to assess competency in course content, many standards specifically require excellence in the development of these teaching resources. The Cleveland-Marshall standards are the most specific with regard to effective writing assignment drafting, and provide the following:

The Legal Writing Professor’s assignments and teaching materials should intellectually challenge students. Assignments are appropriate to the students’ realistic analytical ability. Problems are factually realistic and, if persuasive writing is required, are well balanced. There are sufficient research exercises during the year to challenge students, expose them to a variety of research methods, and lead them to competence in research performance. The research is organized, and built upon with a clear focus and continuum throughout the year.⁹⁰

Other standards characterize effective writing assignment design as the “[p]roduction and selection of materials for use in teaching, including research and writing problems or exercises, samples, readings, and other teaching tools,”⁹¹ the creation of “challenging writing assignments that require the integration of research, analytical, and writing skills,”⁹² and the design of “assignments that challenge students.”⁹³ Finally, successful writing assignment drafting has been characterized as the “[c]reation of teaching and assignment materials that are appropriate to students’ analytic capabilities and that are

⁸⁸ Drake, App. 1, No. 6, at 356.

⁸⁹ St. John’s, App. 1, No. 12, at 425.

⁹⁰ Cleveland-Marshall, App. 1, No. 3, at 340.

⁹¹ Dayton, App. 1, No. 4, at 348.

⁹² Drake, App. 1, No. 6, at 355.

⁹³ Hofstra, App. 1, No. 7, at 372.

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balanced, factually complete, and realistic,”⁹⁴ and the ability to “[d]esign[] challenging but appropriate course material, drawing from school and national sources.”⁹⁵

c. Evaluating Student Work

Many standards specifically address the writing professor’s effectiveness in evaluating and commenting on student writing assignments. In terms of evaluating student work, many standards require that professors be able to clearly “[r]ecognize the difference between effective and ineffective writing and analysis”⁹⁶ and to “[c]onceptualize that difference...by explaining to students why one technique works while another does not.”⁹⁷

In providing feedback to students, many standards explicitly or implicitly address the cumulative nature of feedback in writing courses. Standards require that professors be able to prescribe solutions to student writing and analysis problems,⁹⁸ to communicate those problems to students in a manner and with a tone that informs and motivates,⁹⁹ and to “stimulate and develop students’ critical, analytical and synthesizing skills.”¹⁰⁰

Grading student papers is also a subject addressed in the

⁹⁴ DePaul, App. 1, No. 5, at 351.

⁹⁵ Oregon, App. 1, No. 11, at 420.

⁹⁶ Cleveland-Marshall, App. 1, No. 3, at 341; *see also* Hofstra, App. 1, No. 7, at 372.

⁹⁷ Cleveland-Marshall, App. 1, No. 3, at 341; *see also* DePaul, App. 1, No. 5, at 351-52 (further requiring that such critiques include “global or ‘end’ remarks to focus students’ attention on areas for improvement in succeeding assignments”); Hofstra, App. 1, No. 7, at 372 (noting that a professor should be able to “evaluat[e] papers by recognizing the difference between effectiveness and ineffectiveness and marking papers with comments that inform and persuade the student.”).

⁹⁸ Cleveland-Marshall, App. 1, No. 3, at 341; DePaul, App. 1, No. 5, at 351 (noting the following attributes of effective feedback: the “[p]rovision of critiques of student work sufficient to enable students to learn the necessary material and progress from assignment to assignment [and the] [p]rovision of detailed comments on each piece of written work, tailored to the individual assignment that is being critiqued and that prescribe solutions by identifying what students should do to improve”); Hofstra, App. 1, No. 7, at 372; Oregon, App. 1, No. 11, at 420 (requiring that professors “provid[e] meaningful feedback to further student progress”); Univ. of Fla., App. 1, No. 15, at 454 (noting that insightful student critiques “explain why one thing works and [] another does not”).

⁹⁹ Cleveland-Marshall, App. 1, No. 3, at 341; *see also* Hofstra, App. 1, No. 7, at 372.

¹⁰⁰ St. John’s, App. 1, No. 12, at 425.

standards. Standards may require that the professor demonstrate his or her ability to grade papers comparatively¹⁰¹ and consistently with course goals.¹⁰² Further, some standards require that professors express the evaluation of the student's work in terms of the document's "practical effectiveness, rather than in terms of the teacher's own personal preferences."¹⁰³ The Hofstra standards also include the ability to "teach[] professional thinking by showing students how to make professional decisions through evaluation of options and choosing the most effective one."¹⁰⁴ Finally, many of the standards require effective and efficient course administration requiring, for example, that the professor "review[] students' written work in a timely, comprehensive, and professional manner"¹⁰⁵ and "[p]rovide[] fair notice of assignments."¹⁰⁶

d. Student Conferences

Many of the standards relating to the demonstration of teaching excellence speak directly to the writing professor's ability to conduct effective student conferences. For example, with respect to the organization of an effective conference discussion, the Hofstra standards evaluate the professor's performance in "conducting student conferences effectively through comments and questions that stimulate learning."¹⁰⁷ Similarly, the Cleveland-Marshall standards require professors to demonstrate the "[a]bility to convey important information to students in a manner that they can understand and accept [and the] [a]bility to ask questions designed to provoke thought, and delivered in a sequence that builds on the answers to preceding questions and leads to the teacher's goal."¹⁰⁸ Drake's standards focus on the students'

¹⁰¹ See e.g. Cleveland-Marshall, App. 1, No. 3, at 341 (requiring that professors "[g]rade student papers in a way that accurately reflects a paper's quality when compared with that of other student papers").

¹⁰² Oregon, App. 1, No. 11, at 420.

¹⁰³ Cleveland-Marshall, App. 1, No. 3, at 341.

¹⁰⁴ Hofstra, App. 1, No. 7, at 372.

¹⁰⁵ Drake, App. 1, No. 6, at 356. See also Univ. of Fla., App. 1, No. 15, at 455 (noting that "[r]eliability, promptness and professionalism require regular and timely completion of all assigned tasks.").

¹⁰⁶ Univ. of Fla., App. 1, No. 15, at 455.

¹⁰⁷ Hofstra, App., 1, No. 7, at 372.

¹⁰⁸ Cleveland-Marshall, App. 1, No. 3, at 341.

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understanding of the conference goals, requiring that conferences be conducted in a manner that “help[s] students understand their past mistakes and develop strategies for improving their future performance.”¹⁰⁹ Some standards require that professors effectively demonstrate an interest in student learning in the context of conferences,¹¹⁰ and many explicitly require regular and consistent availability for student conferences.¹¹¹

e. Evaluation of Excellence in Teaching

Some standards specifically articulate how the teaching criterion is evaluated. This subcategory of standards will be examined on the basis of a variety of factors, including: who (or, in some cases, what group) is responsible for conducting the evaluations; what type of process is employed for evaluation of teaching and recommendation on retention and promotion; and, what materials are reviewed to ascertain teaching excellence.

To the extent that standards speak to the process of evaluation of teaching, some identify the director’s role. In these cases the director’s role is typically more involved during the renewal periods in the initial contract period, as opposed to during the first promotion cycle. In Oregon, for example, the director must annually read the professor’s curriculum vitae, statement of goals and accomplishments, and portfolio containing representative assignments, student papers and syllabi; review the professor’s student evaluations; observe one or more of the professor’s classes; and meet with the professor.¹¹² At Drake Law School, during the Assistant Professor contract period, a committee annually visits the professor’s classes and reviews student evaluations, and the director annually meets with the professor to review progress

¹⁰⁹ Drake, App. 1., No. 6, at 356.

¹¹⁰ Cleveland-Marshall, App. 1, No. 3, at 341 (requiring a “[d]emonstrated interest in students’ development as legal writers, researchers, and professionals and consistent availability to students for one-on-one and/or small group consultation regarding writing projects”).

¹¹¹ *Id.*; Drake, App. 1, No. 6, at 356 (requiring “sufficient access to students outside regularly scheduled conferences”).

¹¹² Oregon, App. 1, No. 11, at 421.

toward retention or promotion.¹¹³ Similarly, at Loyola/Los Angeles, the Director of Legal Writing observes faculty members' classes, reviews instructional material and student evaluations, and meets with faculty members.¹¹⁴

Nova Southeastern provides even the newest faculty members peer review. Satisfactory teaching in the first year is based upon both student and peer review.¹¹⁵ With regard to peer review the standards note:

Peer evaluation should be critical but supportive. The test is whether the faculty member is or can become a quality, effective teacher. Therefore, the critical aspect of the review is whether he/she is capable of achieving the high level of quality teaching we expect from all faculty members. Once the Committee determines the faculty member can achieve that level, the supportive aspect of the review includes making suggestions and helping the first year teacher to reach his/her potential.¹¹⁶

Similarly, at St. John's University, professors on a one-year contract are assessed via a classroom visit once a semester, while professors on a three-year contract are subject to an annual classroom visit.¹¹⁷

Additionally, a professor's performance may be reviewed by some form of a promotion and tenure committee.¹¹⁸ This is particularly applicable at the promotion stage. At the promotion stage, it is typical for the Director to prepare a report regarding a promotion decision, and for a committee to independently evaluate the professor's promotion, taking into consideration the Director's report.¹¹⁹ In terms of promotion to Senior Instructor status, the Oregon standards direct a personnel committee to review the following materials in making a promotion recommendation: the Director's recommendation with regard to promotion; the affected professor's curriculum vitae and promotion statement; a

¹¹³ Drake, App. 1, No. 6, at 359-61.

¹¹⁴ Loyola/LA, App. 1, No. 9, at 400-01.

¹¹⁵ Nova Southeastern, App. 1, No. 10, at 403.

¹¹⁶ *Id.*

¹¹⁷ St. John's, App. 1, No. 12, at 426.

¹¹⁸ American/WCL, App. 1, No. 2, at 336; Drake, App. 1, No. 6, at 354; Oregon, App. 1, No. 11, at 421-22.

¹¹⁹ See, e.g., Drake, App. 1, No. 6, at 360.

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representative sampling of the affected professor's student evaluations; and class visit reports made by members of the committee.¹²⁰ On the basis of those materials, the committee makes a recommendation on promotion to the full faculty.¹²¹

Similarly, at Drake, during promotion cycles to Associate and Full Professor, the faculty Promotion and Tenure Committee reviews the affected professor's student evaluations, attends one or more of the affected professor's classes, reviews materials related to service and scholarship, and reviews a recommendation made by the Director.¹²² On the basis of those materials, the committee issues an independent recommendation regarding promotion to the Dean.¹²³

In terms of materials identified for review, most standards refer to a review of student evaluations,¹²⁴ curricula vitae,¹²⁵ and reports of classroom observations.¹²⁶ The American/WCL also contemplates the use of professor self-evaluation responses to questions such as the following:

Do you feel your teaching evaluations fairly reflect your performance? Why or why not?

Based on your teaching evaluations and your own perceptions of your teaching this year, how will you be modifying your teaching in the future?

Describe any substantial new components (e.g. substantial class projects, filed visits, technological innovations, guest speakers etc[.]) you added to your classes this year. How would you describe the effectiveness of these innovations?¹²⁷

Finally, both the Oregon and American/WCL standards refer to professor portfolios containing items such as the foregoing as well as: sample lesson plans and activities; accounts of individual work done with students on writing or

¹²⁰ Oregon, App. 1, No. 11, at 423.

¹²¹ *Id.*

¹²² Drake, App. 1, No. 6, at 360.

¹²³ *Id.*

¹²⁴ American/WCL, App. 1, No. 2, at 335; Drake, App. 1, No. 6, at 356; Loyola/LA, App. 1, No. 9, at 401; Nova Southeastern, App. 1, No. 10, at 403; Oregon, App. 1, No. 11, at 421; St. John's, App. 1, No. 12, at 426.

¹²⁵ American/WCL, App. 1, No. 2, at 337; Oregon, App. 1, No. 11, at 421.

¹²⁶ American/WCL, App. 1, No. 2, at 335; Drake, App. 1, No. 6, at 356; Oregon, App. 1, No. 11, at 421.

¹²⁷ American/WCL, App. 1, No. 2, at 336.

research projects; accounts of other teaching and or advising done by the professor; and video recordings of classes, workshops, labs or other instructional programming.¹²⁸

Most of the standards reviewed provide some indicia the faculty uses to determine excellence in teaching, and most are directed specifically at excellence in research and writing instruction. Common themes include the following: focused, organized classroom instruction; ability to relate to, and inspire students; demonstrated commitment to students' educational experience; accessibility; current awareness of innovations in teaching methodology; and organized and predictable course administration. Additional attributes of effective research and writing instruction are also addressed, such as designing writing assignments, providing feedback on student papers, and conducting student conferences.

While specificity does provide some objective measurement for both the professor and his or her reviewing body, programs should be cognizant of potential adverse consequences of defining with too much specificity prerequisites for excellence in teaching. To that end, several standards provide a disclaimer noting that identified indicia of teaching excellence are not exhaustive. The Indiana standards note that "[t]he quality of teaching is admittedly difficult to measure, but it is the responsibility of each candidate to demonstrate a satisfactory level of teaching effectiveness."¹²⁹ The broad characterization of excellence employed by the Indiana standards avoids problems associated with a mutually exclusive list: "The prime requisites of an effective teacher are intellectual competence, integrity, independence of thought, a spirit of constant inquiry, a vital interest in working with and teaching students, and an ability to impart enthusiasm and a spirit of intellectual integrity."¹³⁰

Specific criteria do assist legal research and writing faculty in assessing the expectations associated with employment. However, to the extent that specific requirements associated

¹²⁸ See American/WCL, App. 1, No. 2, at 336-37; Loyola/LA, App. 1, No. 9, at 400-01; Oregon, App. 1, No. 11, at 421.

¹²⁹ Indianapolis, App. 1, No. 8, at 387. It is noteworthy that the standards applicable to legal writing faculty at Indiana-Indianapolis are the same as those applied to the tenured, doctrinal faculty. They are therefore not specifically modeled to address specific attributes of legal research and writing instruction.

¹³⁰ *Id.*

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with legal research and writing instruction must be satisfied to demonstrate excellence, the standards are more specialized and directed than those imposed upon non-legal writing, doctrinal colleagues. While the specificity may be based upon programmatic objectives, the standards' requirements may raise issues of academic freedom. One scholar notes that the academic freedom of writing faculty is limited in a variety of ways by programmatic directives, such as mandated textbook selection, and directives regarding teaching methodology:

Similarly, pressure both explicit and implicit is exerted on writing faculty regarding teaching methods and materials. Writing teachers report that faculty or deans micromanage the writing curriculum to the extent of prescribing the topics, due dates, and page lengths for legal writing assignments. . . . By faculty or committee vote, some writing programs are required to have a high level of uniformity in assignments, due dates, textbooks, exams, and curriculum. This uniformity may be required not just in new programs or with inexperienced teachers, but also in well-established programs with highly experienced teachers in whom the law school demonstrated sufficient confidence to retain as teachers.¹³¹

Further, proscribing excellence in terms of teaching *legal writing* specifically, rather than more generalized teaching expectations, may discourage innovation, creativity, or individuality among instructors.¹³² Consequently, it is recommended that, at a minimum, schools consider including a disclaimer in teaching standards noting that the indicia of

¹³¹ Durako, *supra* note 32, at 263-64 (citations omitted).

¹³² See, e.g., Pamela Edwards & Sheilah Vance, *Teaching Social Justice Through Legal Writing*, 7 LEGAL WRITING: J. LEGAL WRITING INST. 63 (2001). In addressing how a legal writing professor might introduce issues of social justice in the legal writing curriculum, the authors examine how such an introduction could be hampered by a lack of academic freedom:

Some legal writing professors may question whether they have the academic freedom, both in the classroom and within the legal writing program, to assign social justice issues to their students, especially if their colleagues fail or refuse to do so. . . . There is a question about whether one legal writing professor can really be divergent in her class in legal writing programs that are essentially uniform, using a common syllabus, common textbook, and common due dates for memos and briefs.

Id. at 77, 79-80.

excellence included are not exhaustive. Notwithstanding this reservation, however, the standards examined do an exemplary job describing attributes of effective research and writing instruction that should accurately be labeled as constituting competence, if not excellence, in teaching.

2. *Service/Professional Development*

a. General Service Criterion

Service is a criterion required under many of the standards reviewed,¹³³ with the criterion being relevant to retention, promotion to the intermediate level, and promotion to the final rank level. Service standards contemplate contributions to the legal writing program, the law school, the university, and the profession. Contributions to the legal writing program are discussed *infra*.¹³⁴

Some standards explicitly recognize service as less important than teaching in terms of required criteria. For example, the St. John's standards recognize the peculiarly time-consuming nature of writing instruction, noting that the "nature of the legal research and writing program demands that members of the Legal Writing faculty devote a substantial amount of their time to teaching responsibilities."¹³⁵ Similarly, the Loyola/Los Angeles standards note that legal writing faculty "are expected to devote most of all their time to teaching responsibilities," but that "they are also expected, as are other members of the faculty, to contribute their services to

¹³³ Albany, App. 1, No. 1, at 333; American/WCL, App. 1, No. 2, at 337; Dayton, App. 1, No. 4, at 349; DePaul, App. 1, No. 5, at 352; Drake, App. 1, No. 6, at 356; Hofstra, App. 1, No. 7, at 372; Loyola/LA, App. 1, No. 9, at 400; Nova Southeastern, App. 1, No. 10, at 411; Oregon, App. 1, No. 11, at 420; St. John's, App. 1, No. 12, at 428; SIU, App. 1, No. 13, at 440; Temple, App. 1, No. 14, at 449; Univ. of Fla., App. 1, No. 15, at 453.

¹³⁴ See *infra* notes 150-167 and accompanying text.

¹³⁵ St. John's, App. 1, No. 12, at 428. Notwithstanding the caveat, the standards do encourage faculty to:

[E]ndeavor to serve the Law School, the University, the profession, and the public by (a) service to the Law School and the University on committees and otherwise; (b) service to the legal profession through professional organizations, bar association committees, and continuing legal education; and (c) service to the public through legislative drafting and advocacy, work for public advisory commissions and volunteer work.

Id.

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the Law School and the community.”¹³⁶ However, the standards caution that “such service should not impair the Associate Clinical Professor’s performance in LRW and [Ethical Lawyering].”¹³⁷

The Drake standards note that “[s]ervice may include, but is not limited to, participation and service on Law School or University committees, involvement and work in professional, civic, governmental, and religious organizations, and other forms of public service that benefit the individual, the public, the institution and the profession.”¹³⁸ Further, special consideration is “given to the service related work of the candidate which contributes to enhancing the reputation of the Law School or the University.”¹³⁹ In other standards, service to the law school is identified as “serving valuably on Law School or University committees [and] advising students,”¹⁴⁰ contributions “beyond classroom teaching, such as coaching moot court teams,”¹⁴¹ and “[p]articipation at [law school] activities (*e.g.*, Admissions events, [public interest] auction, commencement, etc.).”¹⁴²

Professional development activities are also noted as indicia of service. Recognizing that a “professor’s service to the community and the profession is of long-term value and importance to the Law School,”¹⁴³ standards note the importance of participation in national professional organizations;¹⁴⁴ attendance and/or presentations at professional conferences, workshops, symposia, or meetings;¹⁴⁵ “providing pro-bono legal services, government service, public service consulting, legislative drafting, or other forms of

¹³⁶ Loyola/LA, App. 1, No. 9, at 400.

¹³⁷ *Id.*

¹³⁸ Drake, App. 1, No. 6, at 356.

¹³⁹ *Id.*

¹⁴⁰ Hofstra, App. 1, No. 7, at 373.

¹⁴¹ DePaul, App. 1, No. 5, at 352.

¹⁴² *Id.*; Loyola/LA, App. 1, No. 9, at 400 (“contribution to and involvement in the life and mission of the law school”); Nova Southeastern App. 1, No. 10, at 412 (“[r]egular participation in the governance of the Law Center through direct involvement in committee and faculty business”).

¹⁴³ Albany, App. 1, No. 1, at 333.

¹⁴⁴ *See, e.g.*, Dayton, App. 1, No. 4, at 349; Drake, App. 1, No. 6, at 357; Hofstra, App. 1, No. 7, at 373; Oregon, App. 1, No. 11, at 421.

¹⁴⁵ *See, e.g.*, Dayton, App. 1, No. 4, at 345; DePaul, App. 1, No. 5, at 351; Drake, App. 1, No. 6, at 353; Oregon, App. 1, No. 11, at 419.

voluntary non-compensated service to the community; [and] serving as a resource on legal issues for organizations or the press.”¹⁴⁶

In measuring the service achievement, the Oregon standards note that items evidencing service excellence are “not exhaustive and other activities may be equally valuable.”¹⁴⁷ The Albany standards further advise “[i]n measuring contributions to the profession and the community the quality of service and the depth of involvement rather than mere membership or peripheral involvement are the important factors.”¹⁴⁸ Finally, the Temple standards note that the “[e]valuation of the candidate’s service should include consultation with Chairs of law school committees on which the candidate has served and others with relevant knowledge of the candidate’s performance of service.”¹⁴⁹

b. Program Contributions/Collegiality

Many of the standards reviewed include an evaluation of the professor’s contributions to, or compliance with, programmatic objectives. Where applicable, a showing of effective or adequate contribution typically appears with the initial promotion stage (Associate rank).¹⁵⁰ In some standards the obligation is an independent requirement,¹⁵¹ while in other standards the requirement appears as part of the service obligations.¹⁵²

Indicia of programmatic citizenship or teamwork include active participation in the legal writing program, evidenced by attendance at, and contributions to meetings,¹⁵³ carrying a share of responsibility for drafting assignments,¹⁵⁴ and assisting

¹⁴⁶ Drake, App. 1, No. 6, at 357.

¹⁴⁷ Oregon, App. 1, No. 11, at 421.

¹⁴⁸ Albany, App. 1, No. 1, at 333.

¹⁴⁹ Temple, App. 1, No. 14, at 448.

¹⁵⁰ See, e.g., Drake, App. 1, No. 6, at 353.

¹⁵¹ See Cleveland-Marshall, App. 1, No. 3, at 342 (“Team Work”); DePaul App. 1, No. 5, at 352 (“LARC Institutional Citizenry”); Drake, App. 1, No. 6, at 356 (“Program Contributions”).

¹⁵² See, e.g., American/WCL, App. 1, No. 2, at 335; Hofstra, App. 1, No. 7, at 362; Oregon, App. 1, No. 11, at 419.

¹⁵³ See, e.g., Drake, App. 1, No. 6, at 353.

¹⁵⁴ See Dayton, App. 1, No. 4, at 345; Drake, App. 1, No. 6, at 353; Hofstra, App. 1, No. 7, at 362.

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new faculty in course development.¹⁵⁵ Indicia may also deal specifically with the effective operation of the program, and consider whether the faculty member: “[t]imely files grades”,¹⁵⁶ assists and stimulates “colleagues in developing problems, classes, teaching methodologies, and the Program curriculum in general”,¹⁵⁷ provides “[t]imely responses to . . . director’s requests for information and director’s inquiries regarding program issues”,¹⁵⁸ provides “[t]imely delivery to LARC director of all proposed assignments, assignment sheets distributed to students, graded papers, and other documents requested by director”,¹⁵⁹ enforces “departmental policies and regulations, including late penalties and word limit penalties”,¹⁶⁰ and, contributes “to the effective administration of the LRW program (e.g., coordinating course-wide events . . .).”¹⁶¹

Other standards address indicia of interaction within the law school community, such as the St. John’s collegiality standard, which notes: “Members of the Legal Writing faculty should treat colleagues, staff members and students with civility and respect. They should make themselves reasonably available to colleagues for purposes of discussing teaching methods, content of courses, possible topics of scholarship, scholarly work-in-progress and related matters.”¹⁶²

Additional interactional criteria include “works well with other legal writing teachers,”¹⁶³ cooperates “with colleagues in planning and developing problems, classes, and teaching methodologies,”¹⁶⁴ exhibits “appropriate behavior toward colleagues,”¹⁶⁵ strikes “an appropriate balance between individual initiative and acceptance of direction,”¹⁶⁶ and “[f]ocuses on compliance with school and Legal Writing

¹⁵⁵ Hofstra, App. 1, No. 7, at 362.

¹⁵⁶ Cleveland-Marshall, App. 1, No. 3, at 342.

¹⁵⁷ Dayton, App. 1, No. 4, at 348.

¹⁵⁸ DePaul, App. 1, No. 5, at 352.

¹⁵⁹ *Id.*

¹⁶⁰ *Id.*

¹⁶¹ Oregon, App. 1, No. 11, at 420.

¹⁶² St. John’s, App. 1, No. 12, at 428.

¹⁶³ Cleveland-Marshall, App. 1, No. 3, at 342 (“Team work”).

¹⁶⁴ Loyola/LA, App. 1, No. 9, at 400.

¹⁶⁵ DePaul, App. 1, No. 5, at 352 (“LARC Institutional Citizenry”).

¹⁶⁶ Oregon, App. 1, No. 11, at 420. *See also* Cleveland-Marshall, App. 1, No. 3, at 342 (“Balances appropriately between individual initiative and acceptance of direction.”).

program policies rather than individual preferences.”¹⁶⁷

General service criteria appear to be consistent with those applied to tenured faculty. They also represent the trend in allowing and encouraging a more active role in faculty governance by legal writing faculty.¹⁶⁸ However, collegiality provisions may be more controversial.

While legal writing has been historically, and is still generally, taught within a program model, collegiality provisions may be viewed by junior faculty as paternalistic. Similar provisions have been criticized in employment standards.¹⁶⁹ Moreover, sanctions for failure to adhere to the more interactive, rather than programmatic directives, e.g., *works well with others*, as opposed to *promotes consistency in pedagogical goals*, run the risk of sounding in subjectivity,¹⁷⁰ if

¹⁶⁷ Cleveland-Marshall, App. 1, No. 3, at 342.

¹⁶⁸ For a discussion of the role of clinical, writing and library faculty in law faculty governance, see Susan P. Liemer, *The Hierarchy of Law School Faculty Meetings: Who Votes?*, 73 UMKC L. REV. 351 (2004).

¹⁶⁹ See, e.g., Sumi Cho, “Unwise,” “Untimely,” and “Extreme”: Redefining Collegial Culture in the Workplace and Revaluing the Role of Social Change, 39 U.C. DAVIS L. REV. 805 (2006). Cho argues that the use of collegiality in employment decisions “grossly undervalues the role of positive social change in the workplace.” *Id.* at 809. Cho states:

A traditional, dominant culture definition of collegiality fails to account for institutional sexism, homophobia, racism, etc., and thus endorses and perpetuates existing cultural norms and castes. Under this ‘can’t we all get along’ formulation, those who transgress the cultural norm of gendered and racial hierarchy appear to be ‘impolite’ and ‘uncollegial’ regardless of history, context, or power relations. If, for example, one works in an embedded culture of institutional heteropatriarchy and white supremacy, then even minimal resistance to such a culture will likely result in a seeming breach of collegiality. In this sense, collegiality serves to normalize workplace injuries to outsider groups serving as an effective hegemonic censor of race- and gender-based resistance to oppression.

Id. at 809-10. See also Gregory M. Heiser, “Because the Stakes are so Small”: Collegiality, Polemic, and Professionalism in Academic Employment Decisions, 52 U. KAN. L. REV. 385 (2004) (discussing criticism of collegiality in employment decisions); Edgar Dyer, *Collegiality’s Potential Chill Over Faculty Speech: Demonstrating the Need for a Refined Version of Pickering and Connick for Public Higher Education*, 119 WEST ED. LAW REP. 309 (1997).

¹⁷⁰ Leonard Pertnoy, *The “C” Word: Collegiality Real or Imaginary, and Should It Matter In A Tenure Process*, 17 ST. THOMAS L. REV. 201 (2004). Pertnoy argues that collegiality is a legitimate criterion in hiring and retention decisions, but notes the inherently subjective quality of the term (and the pervasiveness of the academy’s reluctance to define collegiality objectively). Subjectivity in defining the standard allows for a discriminatory pretext in evaluation.

Not defining a criterion admittedly used to make a determination permits the

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not an affront to academic freedom.¹⁷¹

Finally, such provisions could be characterized as sexist. Indeed, law schools should be cognizant of potential claims of discrimination arising as a result of such contractual obligations. As one scholar has noted, the collegiality standard

can easily become a mask for race, gender, age, religious, national origin, or disability discrimination . . . [and that] even in the absence of intentional discrimination, the use of collegiality can subtly and adversely affect the chances for tenure of women and members of minority groups. . . . [B]ecause there are real differences between the way men and women view the world and relate to others, it is much harder for tenured men to see women faculty as collegial or as "fitting in," and it is much harder for those men to be comfortable mentoring junior female faculty members.¹⁷²

Claims of discriminatory pretext are more compelling in the context of contract positions for legal writing faculty,

use of just about any definition that fits the facts. . . . [T]he greater the spectrum of definitions, the more choices exist, and the easier it is to come up with a definition that masks discriminatory intent. Clearly, the result is a greater use of collegiality as pretext to exercise discrimination.

Id. at 203. Arguing for an objective definition of collegiality, he posits:

[A]n objective definition of collegiality would significantly reduce discriminatory pretext abuse because it would unquestionably decrease any subjectivity, and establish the specific circumstances under which collegiality would or would not exist. Any other circumstances not defined or established would fall outside the objective characteristics, and would thus be unavailable as pretext for discrimination. The fewer subjective opportunities that exist, the harder it becomes to discriminate and the easier it is to detect any parasitical discrimination.

Id.

Admittedly, an objective standard for collegiality would reduce the likelihood of misuse of the standard. Pertnoy concludes that one aspect of his solution is to make the requirement of collegiality explicit and unambiguous, but he ultimately acknowledges that "[c]ollegiality, by nature, will always be very subjective." *Id.* at 222. Thus, to the extent that programmatic measurements of collegiality (legitimized, in part, on the basis of the programmatic nature of legal writing instruction at many institutions) are objective, they may be properly employed in promotion and retention decisions. However, the interactive measurements, more prone to misuse, should be rejected.

¹⁷¹ Pertnoy, *supra* note 170, at 217-19.

¹⁷² Mary Ann Connell & Frederick G. Savage, *The Role of Collegiality In Higher Education Tenure, Promotion, and Termination Decisions*, 27 J.C. & U. L. 833, 847-48 (2001) (citations omitted).

particularly where those faculty are isolated from other faculty and reviewed by a single director. A scholar investigating discriminatory claims specifically in the context of law school contract positions concludes that:

[Contract] positions exploit women, particularly women of color, by taking advantage of the women's personal and other responsibilities to create a lower-paid, hard-working group at the bottom of organizations.

While managers make some decisions consciously to discriminate against women in the workplace because of their sex, *a large part of women's inequality exists because of invisible structural barriers, as well as decision making and practices that reflect unconscious stereotypes and gender schemas that accord greater value to masculine traits.*¹⁷³

In light of relevant precedent, law schools should avoid gender stereotyping of legal writing contract positions by ensuring neutral preferences in hiring and evaluation standards.¹⁷⁴ Potentially actionable stereotyping includes:

[T]he characterization of legal writing teaching as requiring a "soft touch" in contrast to doctrinal teaching, which requires a person who is "tough" and "demanding" and not a "wimp." These comments tend to be gendered in that they attribute to legal writing teaching traditional feminine characteristics, such as supportiveness, softness, less intellectual interest, and contentment, but attribute to doctrinal teaching traditional masculine characteristics, such as intellectual vigor and toughness.¹⁷⁵

Moreover, such collegiality provisions could be construed as further engendering an already overwhelmingly female academy.¹⁷⁶ As one scholar observes:

¹⁷³ Ann C. McGinley, *Discrimination in Our Midst: Law Schools' Potential Liability for Employment Practices*, 14 UCLA WOMEN'S L.J. 1, 3 (2005) (emphasis added) (citations omitted).

¹⁷⁴ *Id.* at 37.

¹⁷⁵ *Id.* at 45.

¹⁷⁶ In 2004, the ALWD/LWI survey reported that approximately sixty-six percent of faculty hired in legal writing positions for the prior five years were female. See 2006 Survey, *supra* note 21, Question 71 (noting unreliability in more recent survey responses).

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Given that this level of [gender] segregation exists in academia and the professional world, there would seem to be a compelling case for rooting out gender discrimination in academia, not only because it is a significant realm of professional employment, but also because universities and professional schools are the gateways through which virtually all professionals pass.¹⁷⁷

Similarly, Kathryn Stanchi examined the hierarchy in law school faculty, finding compelling evidence of a deliberate “institutionalized and illegitimate status hierarchy operating in American law schools.”¹⁷⁸ Stanchi reveals that the

players in this status hierarchy are the faculties and administrations of American law schools. At the top are the tenured “doctrinal” professors, roughly 70 percent of whom are male; at the bottom are legal writing professors, roughly 70 percent of whom are female. This institutionalized status system is based on elitism and gender discrimination.¹⁷⁹

Such discrimination is fostered by the legal writing academy’s lack of access to “cultural capital,” including scholarship and participation in faculty governance.¹⁸⁰ It is further perpetuated by imposing standards for performance that reflect and perpetuate female gender stereotypes.¹⁸¹ To the

¹⁷⁷ Scott A. Moss, *Against “Academic Deference”: How Recent Developments in Employment Discrimination Law Undercut and Already Dubious Doctrine*, 27 BERKELEY J. EMP. & LAB. L. 1, 15 (2006).

¹⁷⁸ Stanchi, *supra* note 66, at 467. .

¹⁷⁹ *Id.* at 467-68 (citation omitted).

¹⁸⁰ *Id.* at 476-91.

¹⁸¹ There is a critical distinction to be drawn between the arguably feminine quality of legal writing pedagogy and the imposition of gendered standards for evaluation. One scholar describes a nexus between legal writing pedagogy and its appeal to female professors:

Pedagogically, the field is dynamic, for it concerns itself not only with substance, but also with process. Assisting a student to become competent in a basic practical skill requires drawing on multiple strategies and techniques. The instruction must be individually tailored for each student and it must blend the practical with the theoretical. . . .

Another aspect of LRW that could appeal to women is the opportunity it affords for intensive interaction with students in a way that can inject into the students’ law school experience key factors that women may have found missing from their own law school experience.

Maureen J. Arrigo, *Hierarchy Maintained: Status and Gender Issues in Legal Writing Programs*, 70 TEMP. L. REV. 117,152-53 (1997).

extent that collegiality provisions in contract standards could be characterized as sexist, impinging on concepts of academic freedom, and unduly vague so as to constitute a pretext for discrimination, they should be avoided.

3. *Scholarship*

Many standards address a legal writing professor's responsibility with regard to scholarship. The standards will be compared insofar as they either require or encourage scholarship, how they quantify requisite productivity, and whether they specify the content of requisite scholarship.

At some institutions, scholarship is a required activity for either promotion or retention. At American/WCL, Drake University, Southern Illinois, St. John's University and Temple, scholarship is required for a promotion.¹⁸² However, at

Kathryn Stanchi argues that discrimination in the market should be exploited for pedagogical reform. *See, e.g.*, Stanchi, *supra* note 66, at 488-96. She posits a more feminist pedagogy, rejecting the traditional, doctrinal pedagogy of large classes, limited feedback, and Socratic dialogue. Stanchi notes: "In its best forms, legal writing has developed a pedagogical model that embraces cooperative and contextual learning and has rejected the more rigid, combative forms of traditional law teaching." *Id.* at 491.

Thus, legal writing instruction has benefited from this more feminist approach to pedagogy, but evaluating professors on the basis of gendered interactional characteristics perpetuates discriminatory practices within the academy. Indeed, the dichotomy represents the "Two Faces of Eve"—the notion that the feminine characteristics are valuable in the classroom, but gendering and stereotyping in evaluative characterizations perpetuate discriminatory practices. As one scholar observes, "In sharp contrast to the prevailing pedagogy of legal education, Legal Research and Writing has a distinct feel of domesticity. Law schools rely on Legal Research and Writing instructors to provide frequent and informal contact between students and faculty and to monitor students' progress and stress levels." Christine Haight Farley, *Confronting Expectations: Women in the Legal Academy*, 8 YALE J.L. & FEMINISM 333, 356 (1996) (citation omitted). Farley concludes:

I do not mean to disparage nurturing traits, but rather to criticize the assignment of these traits a gender and a low value. The expectation, in fact the ideal for Legal Research and Writing faculty, is that they will conduct themselves as we expect women to conduct themselves. . . . My project is simply to call for the de-gendering of the assignment of roles in legal education.

Id. at 356-57. I also support the nurturing traits inherent in legal writing pedagogy, but caution against the codification of potentially sexist characterizations in employment standards.

¹⁸² Temple and SIU require the production of scholarship for promotion to the intermediate-associate-level. Temple, App. 1, No. 14, at 449; SIU, App. 1, No. 13, at 429. American/WCL and Drake do not require scholarship for the intermediate level promotion (although such scholarship would contribute to the material considered for promotion), but scholarship is required for the promotion to the final academic rank at

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other institutions, scholarship is expressly not required, but is encouraged. For example, the Loyola/Los Angeles standards provide that “[s]cholarship is neither required nor expected for the award of a renewal contract” but that scholarship could be considered in the context of evaluating teaching excellence.¹⁸³ Also, the Cleveland-Marshall standards note:

A Legal Writing Professor is not expected to engage in published legal scholarship as a part of teaching and Program responsibilities. However, the Dean, Director, and faculty encourage and support Legal Writing Professors who wish to engage in scholarship regarding legal writing, including publications, research and conference presentations. . . . The Dean and law school will support scholarly activity.¹⁸⁴

At institutions that do require scholarship, the quantity of scholarship is often specified. For example, at Southern Illinois, for a promotion to Associate Clinical Professor, a professor must have produced “at least three standard-sized writings, or their equivalent, at least one of which must be a published article.”¹⁸⁵ A standard-sized writing is defined as “twenty double-spaced, typewritten pages.”¹⁸⁶ To be promoted to Clinical Professor, the professor “must have produced at least nine standard-sized writings, or their equivalent, at least three of which must be published articles.”¹⁸⁷ To be promoted to full Professor at St. John’s University, the faculty member must produce, at a minimum, “a book (which may be a book for practicing attorneys) or two publications consisting of chapters in books which are attributed to the candidate, articles in law reviews or in refereed journals or articles of a similar nature in other publications, or any combination thereof.”¹⁸⁸

At Temple, to be promoted to Associate Professor, the professor “must demonstrate significant achievement in

both of these institutions. American/WCL, App. 1, No. 2, at 336; Drake, App. 1, No. 6, at 357.

¹⁸³ Loyola/LA, App. 1, No. 9, at 400.

¹⁸⁴ Cleveland-Marshall, App. 1, No. 3, at 342.

¹⁸⁵ SIU, App. 1, No. 13, at 440.

¹⁸⁶ *Id.*

¹⁸⁷ *Id.* at 441.

¹⁸⁸ St. John’s, App. 1, No. 12, at 426.

scholarship based on at least one professional work.”¹⁸⁹ To be promoted to Professor at Temple, “the LRW Faculty Member must have achieved professional recognition in the field of Legal Writing through published, original work beyond that required for promotion to Associate Professor.”¹⁹⁰ At Nova Southeastern, to be promoted to Associate Professor, a faculty member must “have demonstrated satisfactory progress in scholarship.”¹⁹¹ To be promoted to full Professor, the faculty member must have completed at least one piece of scholarship such as a book or a law review article.¹⁹² Similarly, at Drake University, to be promoted to Associate Professor, the faculty member must demonstrate “solid progress towards” the scholarship requirement associated with the full Professor title.¹⁹³ To be promoted to Professor of Law, a Drake University writing professor must produce “a minimum of one work equivalent in length and quality to a traditional law review article.”¹⁹⁴

While traditional law review articles, books, and treatises are generally recognized forms of publication under doctrinal, tenure-track standards, the 405(c) standards for legal writing faculty often outline writings other than traditional law review articles which are eligible for consideration under the scholarship standard. For example, the Southern Illinois standards acknowledge that while “[a]ll Lawyering Skills faculty members are expected to engage in high quality writing and publication[,] [t]his work may differ somewhat from that done by tenure-line Law School faculty.”¹⁹⁵ While “highly analytical writing for law reviews is encouraged,” faculty members can also submit for consideration the following: “(a) articles in bar journals, specialized journals, and those covering clinical or legal education; (b) teaching materials for lawyering skills programs; (c) briefs or memoranda on significant legal issues; (d) practice manuals; (e) testimony in support of legislative proposals; and (f) continuing legal education

¹⁸⁹ Temple, App. 1, No. 14, at 449.

¹⁹⁰ *Id.*

¹⁹¹ Nova Southeastern, App. 1, No. 10, at 404.

¹⁹² *Id.* at 414.

¹⁹³ Drake, App. 1, No. 6, at 358.

¹⁹⁴ *Id.* at 357.

¹⁹⁵ SIU, App. 1, No. 13, at 440.

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materials.”¹⁹⁶

The Drake standards similarly note a variety of eligible scholarly material, including “traditional law review articles, articles about substantive topics or legal education published in professional journals, books, treatises, practice manuals, studies or reports, revisions, supplements, statutes, course and simulation materials and litigation documents, including briefs and memoranda of law.”¹⁹⁷

Some institutions also designate the content of publications eligible for consideration under the standards. At Temple, to be considered for promotion to Associate Professor, the one required professional work must be “in legal research and writing.”¹⁹⁸ “Additional scholarship beyond the foregoing requirement which is not in the field of legal research and writing may be considered as well.”¹⁹⁹ The Drake standards are broader in characterizing the content of eligible scholarship, noting:

In light of the nature of the legal writing curriculum, the nature and quality of scholarship required of faculty whose primary responsibility is to teach legal writing shall be tailored to reflect the LRW Faculty Member’s special interests and focus but shall be measured by common standards of thoroughness, analytical power, creativity and presentation. Scholarship may be satisfied not only by traditional forms of scholarship, but by written or other permanent works that enrich the legal writing curriculum.²⁰⁰

At Cleveland-Marshall, while scholarship is not required, the standards do specify that “Legal Writing Professors may choose to engage in scholarship in subjects beyond the scope of legal research and writing. Nothing prevents Legal Writing Professors from submitting that scholarship for favorable consideration in connection with reappointment or promotion.”²⁰¹

At some institutions, there are timing restrictions that

¹⁹⁶ *Id.*

¹⁹⁷ Drake, App. 1, No. 6, at 357.

¹⁹⁸ Temple, App. 1, No. 14, at 449.

¹⁹⁹ *Id.*

²⁰⁰ Drake, App. 1, No. 6, at 357 (emphasis added).

²⁰¹ Cleveland-Marshall, App. 1, No. 3, at 342.

apply to publications eligible for consideration for promotion. For example, at Temple, a publication is not eligible for consideration under the standards unless it was “written and published, or submitted for publication, after the LRW Faculty Member became a member of the Temple faculty.”²⁰² Similarly, at Drake, in order to be eligible for consideration, a publication “must have been completed after the faculty member came to Drake.”²⁰³ In contrast, at Southern Illinois, the “Law School will consider writings done at any time, including prior to joining the Lawyering Skills faculty, provided that the Lawyering Skills faculty member has continued to write and publish in recent years.”²⁰⁴

In some instances there are special procedures designated for the evaluation of scholarship. The Temple standards are the most specific in this regard. When a writing professor is considered for promotion, he or she has the opportunity to identify at least two scholars who are not members of the Temple faculty to review his or her publications.²⁰⁵ The committee considering the professor’s promotion then solicits a written evaluation of the professor’s scholarship from at least one identified scholar.²⁰⁶ The written report solicited “discusses the extent to which the work in question reflects knowledge of the subject matter and makes a positive contribution to the field as well as such other information or commentary as the scholar deems relevant to the LRW Faculty Member’s qualifications for a longer-term reappointment.”²⁰⁷ Further “[t]he LRW Faculty Member under review shall be entitled to see and respond to any written report prepared by such a scholar, provided that the report is redacted to preserve the scholar’s anonymity.”²⁰⁸

Also, at St. John’s University, in evaluating a faculty member for promotion to full Professor, the committee may elect to have the faculty member’s scholarship subject to an external review.²⁰⁹ In that case, the faculty member may select

²⁰² Temple, App. 1, No. 14, at 449.

²⁰³ Drake, App. 1, No. 6, at 357.

²⁰⁴ SIU, App. 1, No. 13, at 440-41.

²⁰⁵ Temple, App. 1, No. 14, at 450.

²⁰⁶ *Id.*

²⁰⁷ *Id.* at 448.

²⁰⁸ *Id.*

²⁰⁹ St. John’s, App. 1, No. 12, at 427.

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the publication to be reviewed and may identify potential reviewers.²¹⁰ In contrast, at Drake, the scholarship review is internal, with the Promotion and Tenure Committee as well as the Director reviewing the scholarship of the faculty member under review.²¹¹

There are a variety of incentives for legal writing faculty to produce scholarship. Engaging in the process of research, analysis, and publication has pedagogical benefits, requiring writing faculty to practice what they teach.²¹² Further, the production of scholarship places legal writing faculty more firmly within the academy. Many scholars have acknowledged that, in the legal academy, scholarship is the “coin of the realm.”²¹³ By failing to produce scholarship, legal writing professionals distance themselves from their doctrinal colleagues and forego the opportunity to acquire the “cultural capital”²¹⁴ that gives rise to credibility, influence, and prestige within the academy.

As Kathryn Stanchi has observed, “Scholarship is . . . the primary measurement of law faculty rank Perhaps for this reason, it is the criterion often used to justify the lower legal writing salaries: legal writing professors do not publish so they should not be paid as much.”²¹⁵ Stanchi argues that the

²¹⁰ *Id.*

²¹¹ Drake, App. 1, No. 6, at 353-54.

²¹² See Toni M. Fine, *Legal Writers Writing: Scholarship and the Demarginalization of Legal Writing Instructors*, 5 LEGAL WRITING: J. LEGAL WRITING INST. 225 (1999). Fine notes:

Engaging in scholarly endeavors may invigorate one's teaching by imparting a renewed awareness of the process of legal research and writing; by renewing one's sensitivity to the challenges faced in attempting to master new, complex tasks in a systematic way; and in providing inspiration to the teacher in developing new and more interesting projects for students by gaining exposure to timely issues and areas of the law.

Id. at 228.

²¹³ See, e.g., Kathryn M. Stanchi & Jan M. Levine, *Gender and Legal Writing: Law Schools' Dirty Little Secrets*, 16 BERKELEY WOMEN'S L. J. 3, 22 (2001) (stating that “[m]ost faculty acknowledge that scholarship is the ‘coin of the realm.’”); P. Koniak & Geoffrey C. Hazard, Jr., *Teaching Legal Ethics “Mainstreaming” Ethics: The Pervasive Method of Teaching Ethics: Paying Attention to the Signs*, 58 LAW & CONTEMP. PROBS. 117, 126 (1995) (in the context of ethics instruction, arguing “[t]o focus on the production and promotion of quality scholarship is consistent with the goal of improving teaching in ethics and the goal of demanding respect and attention for the subject in the larger law school community. Scholarship is the coin in this realm.”).

²¹⁴ Stanchi, *supra* note 66, at 479-85.

²¹⁵ *Id.* at 482 (citation omitted).

institutional realities of law school ensure that writing faculty remain at the bottom of the social structure by prioritizing scholarship as the most valuable cultural capital, then instituting policies that make it impossible for writing faculty to acquire such capital.²¹⁶ These observations are sadly accurate, but suggest that the production of scholarship by writing faculty would be a step toward challenging the status quo.

Notwithstanding the foregoing, the determination of whether scholarship should be required or merely encouraged should reflect the institutional realities of the position. At institutions where legal writing faculty members' salaries are well below those of their doctrinal colleagues, or where the writing faculty are not eligible for scholarship support in terms of stipends and research assistance, the additional burden of scholarship without the benefits afforded other categories of faculty is inequitable. On the other hand, where such benefits are comparable, the encouragement and/or requirement of scholarship places the writing faculty in a position of productive parity with their peers.

Due to the time-consuming nature of writing instruction, there is a reasonable justification for a less burdensome scholarship requirement than that of the doctrinal faculty. As one scholar notes in the context of standards applicable to clinical law faculty:

In order to write, any law professor needs teaching loads, weekly schedules, annual teaching calendars, leaves, support staff, research assistants, mentors, and other support. If law faculty who teach in the clinic have employment conditions similar to those who do not teach in the clinic, they are as likely to be productive scholars as anyone else. Institutions who deny these resources to specific faculty and argue that they are not productive scholars have created a situation ripe for failure. The worst of all worlds is a system that creates a parallel track for clinic faculty with fewer resources and less status, autonomy, and pay and yet creates an expectation of

²¹⁶ *Id.* at 482-85 (citing disproportionate workloads and failure to recognize or reward legal-writing related scholarship as policies undermining legal writing faculty scholarship).

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traditional scholarship for success.²¹⁷

Similarly, Sue Liemer, a recognized scholar in the field of legal writing, examined the difficulties inherent in producing scholarship while teaching legal writing.²¹⁸ She concludes:

In sum, LRW professors have done everything humanly possible to find the time to write. They have stolen time from other work, they have taken political action seeking better terms of employment, they have funded their colleagues' scholarship to give a few others the time to write, they have written about the problem in their own scholarship, they have discussed it at their own conferences for many years, and they have even lost sleep over it. LRW professionals have proven their commitment to scholarship. Some law schools have recognized and supported this commitment. When will the rest of the legal academy give their writing experts, the LRW professors, the time to write?²¹⁹

Given the demands associated with legal writing instruction, the Hofstra standards appropriately acknowledge that

[a]n applicant's contributions to the field are not expected to equal those of members of the tenure-track faculty because the applicant's teaching is assumed to be much more labor-intensive than teaching done by most tenured and tenure-track faculty.²²⁰

Also, to the extent that tenure standards do not generally specify required content of scholarship, it is reasonable to allow the faculty member some freedom in publication topic.²²¹ To the extent that the standards apply to writing faculty, however, scholarship related to legal writing should be expressly eligible

²¹⁷ Nina W. Tarr, *In Support of a Unitary Tenure System for Law Faculty: An Essay*, 30 WM. MITCHELL L. REV. 57, 69 (2003).

²¹⁸ Susan P. Liemer, *The Quest for Scholarship: The Legal Writing Professor's Paradox*, 80 OR. L. REV. 1007 (2001) (citations omitted).

²¹⁹ *Id.* at 1031-32.

²²⁰ Hofstra, App. 1, No. 7, at 372 (emphasis added).

²²¹ However, schools should recognize scholarship in the field of legal writing as satisfying a scholarship standard. It is, after all, legitimate scholarship. See Mary Beth Beazley & Linda H. Edwards, *The Process and the Product: A Bibliography of Scholarship about Legal Scholarship*, 49 MERCER L. REV. 741 (1998).

for consideration for promotion of these faculty members.

C. POST TENURE REVIEW AND OBJECTION PROCEDURES

To the extent that a 405(c) long-term contract constitutes *clinical tenure*,²²² the procedure under which a 405(c) long-term contract is renewed should mimic the procedure under which a tenured faculty member is reviewed (presumably annually). Thus, under the Drake standards, the evaluation regarding renewal mirrors the evaluation of tenured faculty. Once the legal writing professor has earned the Professor of Law title, he or she follows the post-tenure review procedure of tenured faculty, submitting an annual report to the Dean of the Law School.²²³ If, during the fourth year of the five-year, presumptively renewable contract, the Dean or Director has identified any reason not to renew the contract, the Professor must be given notice and the Promotion and Tenure Committee must reconvene to reconsider the Professor's satisfaction of the standards associated with the professor rank.²²⁴ A similar procedure applies to the final professor rank at Albany,²²⁵ Loyola/Los Angeles,²²⁶ and Dayton.²²⁷ At other schools the professor is subject to a committee evaluation for renewal of long-term contract status.²²⁸

²²² See Herma Hill Kay, *UC's Women Law Faculty*, 36 U.C. DAVIS L. REV. 331, 348 n.88 (2003) (citing Richard K. Neumann, Jr., *Women in Legal Education: What the Statistics Show*, 50 J. LEGAL EDUC. 313, 327 (2000)).

²²³ Drake, App. 1, No. 6, at 360.

²²⁴ *Id.*

²²⁵ Albany, App. 1, No. 1, at 333 ("If in the final year of a professor's long-term contract, the Dean finds that the professor clearly continues to meet the criteria set forth above, the Dean shall so inform the Board of Trustees so that the Board may consider whether to offer the professor another long-term contract. If the Dean does not find that the professor clearly continues to meet the criteria set forth above, the Dean shall recommence the procedure described in this policy by appointing a committee as therein described.").

²²⁶ Loyola/LA, App. 1, No. 9, at 401 ("Second and subsequent renewals of five-year contracts shall be made by the Dean upon recommendation by the Director of Legal Writing. There need not be plenary review by the Skills Committee unless requested by the Director or by any Committee member. If review is requested, the Committee shall proceed with the evaluation and renewal process as set out in sections C and D (1) above.").

²²⁷ Dayton, App. 1, No. 4, at 347-48 ("Subsequent five-year appointment renewals do not require Committee review, but may be made by the Dean in consultation with the Program Director.").

²²⁸ See, e.g., Oregon, App. 1, No. 11, at 423-24 (University policy requires two-year contracts. Director performs biennial review and recommendation. "Every six years,

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Some standards further address the objection procedures afforded a legal writing faculty member whose presumptively renewable contract has been questioned. Southern Illinois University has the most specific objection procedures and allows a writing faculty member to object to committee findings, request a review meeting, and appear personally at the review meeting.²²⁹

IV. CONCLUSION

The modifications to 405(c) reinforce the tenure-like quality of 405(c) appointments. To that end, it is not surprising

the personnel committee will conduct reviews to ensure that the senior instructor continues to meet the criteria in Section IIB regarding teaching, service, and professional development. If so, the senior instructor will receive benefits commensurate with a positive post-tenure review.”); Hofstra, App. 1, No. 7, at 366-67, 370.

²²⁹ SIU, App. 1, No. 13, at 436. The standards specifically provide:

Review Procedures On Promotions And Continuing Appointments

1. The Lawyering Skills faculty member may object to the preliminary findings and conclusions within three (3) “business” days (any day that mail is delivered to the law school) of receiving the preliminary report. The faculty member must address the objection to the committee in writing, must demand a review of findings meeting, must specify the grounds for the objection, and must list the names of any witnesses that the faculty member wants to confront or present at the review meeting.
2. The committee shall schedule a review of findings meeting to be held within three (3) “business” days of receipt of the notice of objection. It shall notify the Lawyering Skills faculty member and any requested witnesses at least twenty-four (24) hours in advance of the date, time and place of the review meeting.
3. The Lawyering Skills faculty member has the right to appear personally at the review meeting, to present information concerning relevant matters in the file, and to submit written comments concerning the findings and conclusions. The committee shall allow an oral or written response by anyone who has contributed to the file.
4. No witness shall be required to appear at the review meeting, and the committee shall have discretion as to what weight should be given to the opinions of a witness who does not appear.
5. The committee shall submit written findings within one week after the completion of the review meeting. These written findings may be the same as the findings filed prior to objection and review but must include the objection and written comments submitted by the Lawyering Skills faculty member being reviewed. These findings may include additional or substitute findings based on the presentation at the review of findings meeting.
6. The findings made by the committee after the review of findings meeting shall become the committee’s final findings and shall be distributed under the same provision for distributing preliminary findings.

that the standards reviewed bear many similarities to doctrinal tenure standards, particularly insofar as they require excellence in teaching and service for retention and promotion purposes. The standards do differ from doctrinal standards, however, in the manner in which they define indicia of teaching excellence, specifically in the context of research and writing instruction. In this regard, however, the 405(c) standards reviewed for this article are similar; they identify similar qualities associated with research and writing instruction and outline—with some specificity—what constitutes excellence.

The most marked difference between the standards reviewed is the emphasis on scholarship. As noted, many standards explicitly note that scholarship is not a required activity for promotion and retention. Other standards expressly require the production of scholarship. For those standards, some require scholarship to focus on a particular subject matter while others do not. Some allow professors to submit scholarship produced prior to employment at the particular institution, while others require that eligible scholarship be produced during employment at the institution. Most standards that require scholarship provide some guidance on the quantity required for promotion.

As discussed *supra*, there are several advantages to providing writing faculty with 405(c) status.²³⁰ Indeed, to the extent that 405(d) mandates competitive terms of employment,²³¹ long-term contracts are the norm, but without 405(c) status the institution gains no real benefit in terms of ratios. Moreover, enhanced security for law faculty who are not on a tenure track has benefits in terms of the preservation of academic freedom and enhanced morale. On the relationship between job security (specifically tenure) and academic freedom, one scholar concludes:

Academic freedom allows professionals to seek and discover, teach, and publish absent outside interference. Tenure is a buttress—a guarantor—of academic freedom. It protects academic freedom through the requirement of academic due process before dismissal. An erosion of tenure places academic freedom at risk. . . . Theoretically, the same academic freedom exists for the most recently hired adjunct

²³⁰ See *supra* notes 38-46 and accompanying text.

²³¹ ABA STANDARD 405(d).

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or untenured faculty member as for the most senior tenured professor. The tenured faculty should protect the untenured. It is questionable whether that ideal exists. The hierarchical structure of law faculties has created fissures where there should be solidarity and undermined tenure and academic freedom.²³²

Thus, law schools should consider employing writing professors with 405(c) status.²³³ In so doing, schools will need to adopt written standards applicable to those positions.²³⁴ Schools then have a variety of choices in what to require and how to express those requirements. As noted above, the standards reviewed for this article provide excellent examples of those choices. To the extent they differ from one another, particularly with regard to scholarship, institutional realities related to status and salary parity between writing and doctrinal faculty should be considered. However, a sound argument can be made for implementing tenure-like standards, which include obligations associated with service and scholarship. These “cultural currencies” equalize faculty obligations across tracks and therefore provide a sound basis for salary and status equality. As one scholar notes in arguing in favor of unified tenure standards for all law faculty:

[A] law school should be “a truly integrated model of legal education, one that fully embraces theoretical and doctrinal scholarship, critical legal studies, clinical education, strong involvements with members of the judiciary and practicing bar, a new “global” law component focused on international issues, and powerful support of public interest ventures. Faculty hiring [should be] focused on diversity of perspectives, with no ideological or academic group having favored status. As a result, practical, theory-oriented, and critical legal scholars, along with their clinician

²³² James J. Fishman, *Tenure: Endangered or Evolutionary Species*, 38 AKRON L. REV. 771, 782, 785 (2005) (claiming that the hierarchy of employment status at law schools has eroded tenure and undermined academic freedom) (citation omitted).

²³³ It is the author's hope that the ABA standards will continue to be revised to require this form of job security for legal writing professors. As discussed *supra*, it becomes increasingly difficult to justify distinctions between clinicians and writing faculty, especially insofar as the 2005 standards revisions were based upon a law school's obligation to create job security that would attract and retain quality faculty and preserve academic freedom.

²³⁴ ABA INTERPRETATIONS 405-3 and 405-7.

counterparts—all with very different interests—[can] flourish in an environment of mutual respect, sharing equal status and prominence on the faculty.”²³⁵

Where legal writing professionals perform service and produce scholarship similar to their tenured peers, there is no justification for marginalizations of status and salary. These issues should therefore also be considered when adopting standards associated with the tenure-like security of 405(c).

²³⁵ Tarr, *supra* note 217, at 59 (quoting Harry T. Edwards, *A New Vision for the Legal Profession*, 72 N.Y.U. L. Rev. 567, 572-73 (1997)).

APPENDIX 1

This appendix contains standards from select law schools that employ their writing faculty under ABA Standard 405(c). The author has obtained permission to reproduce these standards. Note that the standards contained herein may have been modified slightly for consistency in formatting. Moreover, some schools have reported that their standards are under review and/or subject to change. Thus, the standards excerpted here, while evidencing excellent examples of written procedures to evaluate writing faculty in accordance with the ABA accreditation standards, should not be relied upon as being the most current at each of the identified law schools. The standards, identified by their institution, follow as noted:

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No. 1

ALBANY LAW SCHOOL

Albany Law School
80 New Scotland Avenue
Albany, NY 12208

Policy on the Availability of Long-Term Contracts
to Non-Tenure Track Professors

Scope: This policy shall apply to all full-time, non-tenure track professors employed by Albany Law School. It shall not apply to professors whose positions are temporarily funded from a grant or some other source, professors who currently have significant supervisory duties with regard to other professors (such as the Director of the Lawyering program), or professors who already have a long-term contract as of the enactment of this policy.

Procedure: Any professor covered by this policy who has been so employed by the School for three consecutive years shall be considered for a long-term contract. Eligibility for a long-term contract shall be determined by the following process:

1. In the fall semester of a professor's third consecutive year of employment, the Dean shall appoint a three-person committee of those persons eligible to vote on personnel matters at faculty meetings. That committee shall be charged with preparing a written report as to the professor's fulfillment of the standards set forth below. If the professor is immediately supervised by a person eligible to vote at faculty meetings, that person shall be appointed as the chair of the committee. If the professor is not immediately supervised by a person eligible to vote at faculty meetings, the three appointees to the committee shall elect a chair. Notwithstanding any other provision of the Faculty's rules, the Director of the Lawyering program shall be treated as a member of the faculty eligible to vote on personnel matters in any case in which a lawyering professor is being considered for a long-term contract.

As used throughout this policy, "consecutive" means substantially consecutive, so that an approved leave of absence of a year or less shall not be deemed to sever the time of a professor's service to the school for purposes of this policy.

2. The committee shall meet as necessary and take appropriate steps to prepare a report regarding the professor's eligibility. The report shall be submitted to the faculty and the Dean no later than

March 31 of the spring semester of the professor's third consecutive year of employment. The committee shall give the professor a reasonable opportunity to review, and meet with the committee regarding, the report prior to its delivery to the faculty and the Dean.

3. The full faculty and the Dean shall meet on or before April 30 of the spring semester of the professor's third consecutive year for the purpose of considering the report and the professor's eligibility for a long-term contract under the criteria set forth below. If a majority of those faculty members present and voting determine that the professor is eligible, and the Dean so concurs, that determination and the report shall be transmitted to the Board of Trustees. If a majority of faculty members present and voting fail to determine that the professor is eligible, and/or the Dean finds that the professor is not eligible, the process shall terminate and the professor shall not be offered a long-term contract. A determination that the professor is not eligible for a long-term contract shall not preclude the offering of year-to-year employment to the professor unless a majority of the faculty affirmatively votes to deny year-to-year employment to the professor.

4. If, under the preceding paragraph, the faculty and Dean determine that a professor is eligible for a long-term contract, the Board of Trustees shall consider the matter under the criteria set forth below, and if the Board determines that the professor is so eligible, shall offer the professor a contract of not less than three years in duration including such terms and conditions as the Board finds appropriate.

Criteria: The following four criteria shall be applied in determining a professor's eligibility for a long-term contract:

1. Professional Integrity

a. Purpose of Requirement

The standards of conduct expected of members of the legal profession apply equally to professors in the law, as well as additional requirements, due to the unique nature of a professor's position in influencing future members of the bar.

b. Factors measuring professional integrity

Factors involved in the professional integrity of a professor include, among others, the following:

(i) as his or her primary responsibility, assisting the student in obtaining a sound legal education both within and without the classroom;

(ii) supporting the concept of academic freedom;

(iii) by his or her overall conduct, both within and

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without the classroom, reflecting and encouraging the standards of professional integrity expected of a member of the legal profession.

2. Teaching of high quality

a. Purpose of requirement

Effective teaching is essential in a law school. Professors are an important component of the educational program. The School will not enter into a long-term contract with any professor unless there is substantial evidence that the professor does, and will continue to, add significant strength to the educational program of the Law School by his or her teaching

b. Factors measuring teaching

Factors measuring teaching of high quality include the following:

(i) command of the subject matter and the technique of teaching appropriate for the material;

(ii) familiarity with changes and developments in both the techniques of teaching and subject matter of the area taught;

(iii) ability to select and execute an appropriate means of teaching the course material or otherwise facilitating the education of students;

(iv) stimulation of useful student discussion or other appropriate student participation in the learning process;

(v) assisting or facilitating students in learning to think clearly and independently;

(vi) preparing or facilitating the preparation of students to be capable of performing legal work effectively;

(vii) engaging in the sound evaluation of student progress towards course objectives;

(viii) maintenance of a high standard of fairness and sound judgment in grading.

3. Contribution to the development and improvement of the law school

a. Purpose of the requirement

The soundness of the educational program at the School requires that all instructional personnel contribute to its activities. Normally, of course, professors have a heavy teaching load that makes the production of legal scholarship difficult, and for that reason contribution to legal scholarship is not a precondition to offering a professor a long-term contract. However, to the extent that a professor is able to produce legal scholarship, this is a positive factor in measuring his or her contribution to the development and improvement of the law school.

b. Factors measuring contribution

Some factors measuring contribution include involvement in moot court programs, Government Law Center, law review, and other co-curricular Law School programs, Law School committee work, advising student organizations and the production of legal scholarship. Accessibility to students and other Law School service shall be considered.

4. Service to the profession and the public

a. Purpose of requirement

A professor's service to the community and the profession is of long-term value and importance to the Law School. Work with bar associations, community groups, and other entities that serve the community at large is an appropriate way of fulfilling this requirement.

b. Factors measuring contribution

In measuring contributions to the profession and the community the quality of service and the depth of involvement rather than mere membership or peripheral involvement are the important factors.

Persons who are currently professors: Persons who are currently professors within the scope of this policy on the date of its enactment, and have held such status for two or more years consecutively, shall be considered in the academic year immediately following enactment or the subsequent year, at the professor's election. A professor shall make any such election and communicate it to the Dean before September 1 of the academic year following enactment of this policy. Persons who are currently professors within the scope of this policy on the date of its enactment, and have not held such status for two consecutive years, shall be considered in their third consecutive academic year.

Persons who are currently professors but not covered by the policy: A person who has the title of professor, but is not covered by the policy (such as the Director of the Lawyering Program), who subsequently becomes a professor covered by the policy shall be considered in the academic year immediately there following. However, if the Dean finds that the criteria set forth above are clearly met, the Dean may proceed as if the matter were a renewal under the following paragraph.

Renewal: If in the final year of a professor's long-term contract, the Dean finds that the professor clearly continues to meet the criteria set forth above, the Dean shall so inform the Board of Trustees so that the Board may consider whether to offer the

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professor another long-term contract. If the Dean does not find that the professor clearly continues to meet the criteria set forth above, the Dean shall recommence the procedure described in this policy by appointing a committee as therein described.

No. 2

AMERICAN UNIVERSITY, WASHINGTON COLLEGE OF LAW

**CRITERIA FOR EVALUATING LEGAL RHETORIC INSTRUCTORS
AT WASHINGTON COLLEGE OF LAW FOR APPOINTMENT TO
LONG TERM CONTRACTS****CRITERIA FOR APPOINTMENTS TO TWO-YEAR CONTRACTS
DURING THE THIRD YEAR OF ANNUAL CONTRACTS.**

Contribution to law teaching shall be the most important criterion to be assessed in evaluating Legal Rhetoric Instructors, who must meet the standard of high quality in teaching ability. Consistent with WCL's practices of teaching evaluation for the purposes of promotion and tenure, classroom observations of teaching, evidenced by written reports from members of Rank and Tenure Committee, assessment of responses from student evaluations of teaching for all classes during all years the instructor has been teaching at WCL, and other evidence of whether the Instructor meets this standard will be the basis for determining whether the standard of high quality in teaching is met. The instructor may provide any other relevant information as evidence of those major factors indicating teaching ability listed in the WCL Faculty Manual. The WCL Rank and Tenure Committee will consider all this information and make a determination as to whether the instructor meets the standard of high quality in teaching ability; this will form the basis of the Committee's recommendation to the Dean as to the appointment of the Instructor to a two-year contract.

**CRITERIA FOR APPOINTMENTS TO RENEWABLE FIVE-YEAR
CONTRACTS AFTER INITIAL APPOINTMENT TO TWO-YEAR
CONTRACT.**

Contribution to law teaching shall be the most important criterion to be assessed in evaluating Legal Rhetoric Instructors, who must meet the standard of high quality in teaching ability. Consistent with WCL's practices of teaching evaluation for the purposes of promotion and tenure, classroom observations of teaching, evidenced by written reports from members of Rank and Tenure Committee, assessment of responses from student evaluations of teaching for all

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classes during all years the instructor has been teaching at WCL, and other evidence of whether the Instructor meets this standard will be the basis for determining whether the standard of high quality in teaching is met. The instructor may provide any other relevant information as evidence of those major factors indicating teaching ability listed in the WCL Faculty Manual. The WCL Rank and Tenure Committee will consider all this information and make a determination as to whether the instructor meets the standard of high quality in teaching ability. This determination, together with the Committee's evaluation of Service and Professional Development and Contributions to Scholarship and Writing, will form the basis of the Committee's recommendation to the Dean as to the appointment of the Instructor to a renewable five-year contract.

I. METHODS OF EVALUATION OF TEACHING

In addition to any other relevant information, as evidence of those major factors indicating teaching ability listed in the WCL Faculty Manual, an assessment of Instructor contributions shall consider:

A. Written reports from members of Rank and Tenure Committee on class visits and numerical and narrative responses from student evaluations of teaching, and may consider answers to self-evaluation questions such as:

1) Do you feel your teaching evaluations fairly reflect your performance? Why or why not?

2) Based on your teaching evaluations and your own perceptions of your teaching this year, how will you be modifying your teaching in the future?

3) Describe any substantial new components (e.g. substantial class projects, filed visits, technological innovations, guest speakers etc) you added to your classes this year. How would you describe the effectiveness of these innovations?

B. Teaching Portfolio:

1) annual report

2) syllabi

NOTE: If the Legal Rhetoric Course Outline is produced by all the full-time Rhetoric Instructors working in collaboration, evaluation of Rhetoric Instructors shall credit this combined effort. Instructors should also submit any syllabi they have separately produced for other courses they may teach.)

3) sample lesson plans/activities (including lesson plans

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prepared for other Instructors)

4) accounts of individual work with students on writing or research including tutoring and supervision of independent study or writing for law journals or assistance with writing samples

5) accounts of teaching done in conjunction with any WCL student outreach program

6) accounts of individual teaching and advising of students in their own and in adjunct faculty- taught Legal Rhetoric classes

7) other elements of a teaching portfolio that the Instructor wishes to present. Such elements might include:

a) written comments of professional colleagues other than members of the Rank and Tenure Committee on class visits

b) video recordings of class, workshops, labs or other instructional programming for students

C. Current curriculum vitae

II. CRITERIA FOR EVALUATION OF SERVICE AND PROFESSIONAL DEVELOPMENT

In addition to those criteria applicable to all WCL faculty members, as set forth in the Faculty Manual, these criteria shall be considered as evidence of achievement in the area of service to WCL:

A) Makes a positive contribution to Legal Rhetoric projects and programming

B) Makes a positive contribution to the development and administration of the legal research and writing curriculum at WCL

C) Demonstrates substantial achievement in mentoring and advising students

III. CRITERIA FOR EVALUATION OF CONTRIBUTIONS TO SCHOLARSHIP AND WRITING

Instructors shall demonstrate commitment to and promise of significant future accomplishment in scholarship or writing including but not limited to scholarship in the field of lawyering skills and/or legal research and writing, creative writing, and applied scholarship in the forms of innovative teaching and curricular materials or as evidenced in briefs to appellate courts that advance novel or innovative approaches to law in attempts to create precedent.

No. 3

CLEVELAND STATE UNIVERSITY
CLEVELAND-MARSHALL COLLEGE OF LAW

LEGAL RESEARCH AND WRITING FACULTY
CLEVELAND-MARSHALL COLLEGE OF LAW
PERFORMANCE STANDARDS FOR EVALUATION OF
NON-TENURE-TRACK FACULTY TEACHING WITHIN
THE LEGAL WRITING AND RESEARCH PROGRAM

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LEGAL RESEARCH AND WRITING FACULTY
CLEVELAND-MARSHALL COLLEGE OF LAW
PERFORMANCE STANDARDS FOR EVALUATION OF
NON-TENURE-TRACK FACULTY TEACHING WITHIN
THE LEGAL WRITING AND RESEARCH PROGRAM

(adopted 6/2002)

(Effective when law faculty and CSU Board
approve Greenbook changes)

I. INTRODUCTION

(A) Purpose

These policies and procedures govern contract renewals for Legal Writing faculty at Cleveland-Marshall College of Law beginning in 2002-2003 academic year. A Legal Writing Professor is eligible for a five-year appointment after completing five yearly appointments, or after having served as a Legal Writing Professor for five years, and may apply for a five-year appointment during the fifth yearly appointment, or anytime thereafter. This document details the expectations of the Dean, the Faculty, and the Director of the Legal Writing and Research Program for full-time non-tenure-track faculty members hired to teach within the Legal Writing and Research Program [the "LW faculty"], and sets out methods by which the Director and/or the appropriately appointed Legal Writing Committee will evaluate LW faculty performance.

(B) Role of the Director of Legal Writing

The Director of Legal Writing has the responsibility for the program and supervision of the LW faculty teaching within it. Supervisory evaluations and annual written reviews of the LW faculty are the responsibility of the Director. With the approval of the appropriately charged Legal Writing Committee, the Director has the primary authority and responsibility for making recommendations to the Dean about appointments, reappointments, promotion and long-term successive reappointments for a period of five years.

II. STANDARDS

(A) Initial Appointment

Each Legal Writing Professor will be hired based upon the demonstrated potential for excellence as a teacher of legal writing and research as shown by educational achievement, prior practice of law, prior teaching, and/or other relevant achievements and skills. Prior to an initial appointment of a Legal Writing Professor, a special search committee will convene to recommend candidates to the Dean of the College of Law. The special search committee shall include at least one tenured or tenure-track faculty member, one Clinical Professor, one Legal Writing Professor, the person who would be the appointee's supervisor, and the Chair of the relevant faculty committee.

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(B) Subsequent Yearly Appointments

For all subsequent yearly appointments, a Legal Writing Professor must demonstrate excellence in the teaching of legal research and writing, effectiveness in relating collegially with peers, and an overall proficiency and professionalism.

(C) Five-year Appointments

For appointment to a renewable term of five years, after the initial five yearly appointments, candidate may apply during the fifth yearly appointment, and must have demonstrated sustained excellence as a Legal Writing Professor. In addition, the candidate must show evidence of the likelihood of continued growth as a Legal Writing Professor, and collegiality with one's colleagues. A special faculty committee will make a recommendation to the Dean for such appointments. (See Part IV (B)(2)).

III. CRITERIA

Teaching skill will be the main consideration for evaluating the performance of a Legal Writing Professor for contract renewal. The considerations enumerated below are the skills a reasonable review of a Legal Writing Professor's performance will consider.

(A) Classroom Teaching

The Legal Writing Professor exhibits a command of legal analysis, legal writing, legal research, and advocacy. Focused and well prepared for class, organized and effective. Defines the goals to be accomplished. Incorporates effective methods of conveying those goals to the students relying on techniques appropriate for teaching writing, analysis and research. Offers insights to the students that they would not get from reading the text alone.

(B) Designing Writing Assignments

The Legal Writing Professor's assignments and teaching materials should intellectually challenge students. Assignments are appropriate to the students' realistic analytical ability. Problems are factually realistic and, if persuasive writing is required, are well balanced. There are sufficient research exercises during the year to challenge students, expose them to a variety of research methods, and lead them to competence in research performance. The research is organized, and built upon with a clear focus and continuum throughout the year.

(C) Evaluating Student Work

The Legal Writing Professor should be able to provide insightful, detailed critiques of student papers with written comments that do

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the following:

1. Recognize the difference between effective and ineffective writing and analysis.
2. Conceptualize that difference between effective and ineffective writing by explaining why one thing works and another does not.
3. Diagnose writing and analysis problems by identifying the habit or misuse that causes the student to write effectively.
4. Prescribe solutions that identify what steps the student can take to improve.
5. Make informative comments on student papers while achieving a tone that motivates students to improve.
6. Grade student papers in a way that accurately reflects a paper's quality when compared with that of other student papers.
7. Prepare, select, and highlight the problems to discuss with students.
8. Evaluate papers in terms of practical effectiveness, rather than in terms of the teacher's personal preferences.

(D) Student Conferences

1. Demonstrated interest in students' development as legal writers, researchers, and professionals and consistent availability to students for one-on-one and/or small group consultation regarding writing projects.
2. Ability to convey important information to students in a manner that they can understand and accept.
3. Ability to ask questions designed to provoke thought, and delivered in a sequence that builds on the answers to preceding questions and leads to the teacher's goal.

(E) Relating to Students

Relates constructively with students inside and outside the classroom.

(F) Course Administration

1. Grades and returns student papers in a timely fashion and before another similar assignment is due.
2. Provides students with fair notice of office hours, conferences, and scheduling that affects them.
3. Completes preparation of assignments well in advance.

(G) Judgment

Exercises sound judgment in all aspects of work. Solves problems reasonably and decisively. Seeks assistance from experienced colleagues when appropriate.

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(H) Team Work

1. Coordinates and works well with other legal writing teachers, faculty, and other members of the law school community.
2. Shares ideas with others in the field, both internally and externally.
3. Focuses on compliance with school and Legal Writing program policies rather than individual preferences.
4. Participates in departmental meetings, and responds to Director's requests in a timely fashion.
5. Timely files grades, follows Department and school policies.
6. Balances appropriately between individual initiative and acceptance of direction.

(I) Scholarship

A Legal Writing Professor is not expected to engage in published legal scholarship as a part of teaching and Program responsibilities. However, the Dean, Director, and faculty encourage and support Legal Writing Professors who wish to engage in scholarship regarding legal writing, including publications, research and conference presentations. Also, Legal Writing Professors may choose to engage in scholarship in subjects beyond the scope of legal research and writing. Nothing prevents Legal Writing Professors from submitting that scholarship for favorable consideration in connection with reappointment or promotion. The Dean and law school will support scholarly activity.

IV. PROCEDURES FOR EVALUATION AND RENEWAL

A. Yearly Reappointments

The Director of Legal Writing is responsible for conducting the performance review of each candidate on a yearly basis and recommending renewal or nonrenewal to the Dean of the College of Law.

B. Five-year Appointments and Renewal

1. Candidate's Application Timetable

A candidate may apply for a renewable five-year appointment any time during the fifth yearly appointment or thereafter. Renewals of five-year appointments shall be considered during the year the term expires. Years taught previously in the Legal Writing Program, when this section is adopted, count toward the eligibility requirement.

Applications of several candidates during the same year shall be considered based upon each candidate's years of prior service. Preference will be given to those with the greatest number of years of teaching Legal Writing at Cleveland Marshall in order of hiring date. While several candidates may be considered during one year, the Director, the Legal Writing Committee, and Chair, in consultation with the Dean, will determine how many candidates' applications are acceptable based upon the available personnel, the resources, and the timing of the applications.

2. Committee Composition

The appropriate Legal Writing Review Committee including one tenured or tenure-track faculty member, one Clinical Professor, one Legal Writing Professor, either senior in status to the candidate, or the Director of the Department, and the Chair of the Legal Writing Committee shall convene and follow the standards and procedures set out herein and maintained on file by the College of Law and the Provost in granting and renewing five-year appointments.

3. Criteria for Recommending Five-Year Appointments

Consideration of the candidate being reviewed shall include the following:

- (a) A list of courses taught at the law school;
- (b) Recent syllabi;
- (c) Student teaching evaluations from recent first year or Third Semester course[s];
- (d) Prior written evaluations by the Director;
- (e) Observation of one or more of the Legal Writing Professor's classes;
- (f) Review of materials the candidate deems relevant such as individual projects, grading guidelines, teaching exercises, worksheets, research and lesson plans;
- (g) Meeting with the candidate;
- (h) Scholarship, presentations, publications, editing, pro bono or other work or activities that serve to enhance the law school's local or national reputation.

The Legal Writing Review Committee shall make recommendations to the Dean, who, after consultation with the PAC Chair, shall determine whether to grant or renew long-term appointments of LW faculty. The Dean shall take into account the Committee's recommendations and the needs of the institution in deciding on the renewal of appointments.

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V. TERMINATION

A Legal Writing Professor may be terminated at any time during the term of a five-year appointment because of the termination of the legal writing program, or in accordance with University policy, both procedural and substantive, governing the dismissal of non-bargaining unit faculty.

No. 4

UNIVERSITY OF DAYTON SCHOOL OF LAW

POLICIES AND PROCEDURES FOR
HIRING AND EVALUATING
FULL-TIME NON-TENURE TRACK
LAWYERING SKILLS INSTRUCTIONAL STAFF

These policies and procedures are for lawyering skills instructional staff (“skills staff”) of the University of Dayton School of Law (“UDSL” or “law school”) teaching in the Legal Profession Program (“Program”). They apply to each full-time staff member appointed to a non-tenure track instructional staff position in lawyering skills. A “year appointment” under this Policy is a nine-month appointment. These policies and procedures are intended to be construed consistently with current versions of the Faculty Handbook of the University of Dayton, the School of Law Policy Manual, and the accreditation standards of the American Bar Association and the American Association of Law Schools.

I. LAWYERING SKILLS STAFF: MEANING OF TITLES

A. Assistant Professor of Lawyering Skills. Members of the Lawyering Skills staff who are appointed to a one-year term are Assistant Professors of Lawyering Skills.

B. Associate Professor of Lawyering Skills. Members of the Lawyering Skills staff who are appointed to a three-year term are Associate Professors of Lawyering Skills.

C. Professor of Lawyering Skills. Members of the Lawyering Skills staff who are appointed to a five-year term are Professors of Lawyering Skills.

II. INITIAL APPOINTMENT OF LEGAL SKILLS STAFF

A. Procedure for New Appointments. New appointments will be made by the Dean, based on the recommendation of a Hiring Committee. This Committee shall be appointed by the Dean and shall include the Program Director, two (2) full-time non-tenure-track lawyering skills staff members, and three (3) full-time tenure-track or tenured faculty members from outside the Program. The Dean may appoint those candidates voted acceptable by two-thirds of the

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committee, unless there are exigent circumstances.

Lawyering skills staff members shall be hired at the rank of Assistant Professor of Lawyering Skills and shall be appointed to an initial term of one year, and, absent extraordinary circumstances, the possibility of up to two additional one-year terms as an Assistant Professor of Lawyering Skills. These appointments are not tenure-track and may not be converted to tenure-track.

B. Standards for Initial Appointment. A candidate for initial appointment as a lawyering skills staff member at the rank of Assistant Professor of Lawyering Skills must demonstrate the potential for excellence as a teacher and scholar of legal research and writing, as shown by educational achievement, prior practice of law, prior teaching, or other relevant achievements and skills.

III. APPOINTMENT RENEWALS

A. One-Year Appointments. To renew one-year appointments of staff members at the Assistant Professor rank, the Program Director shall conduct an evaluation of the instructional staff member and make a report to the Dean. For re-appointment, the Program staff member must demonstrate excellence in the teaching of legal research and writing and familiarity with the pedagogy of legal skills instruction.

If a one-year appointment will not be renewed, notice must be given in writing to the Legal Profession staff member not later than March 15 of the current academic year.

B. Three-Year & Initial Five-Year Appointments. A Review Committee, appointed by the Dean, shall review the application for a three-year appointment and the application for the first five-year appointment. The Committee shall include the Director, two (2) full-time non-tenure-track Legal Profession staff members, and three (3) full-time tenure-track or tenured faculty members from outside the Program. Only those candidates voted acceptable by two-thirds of the Committee shall be eligible for a multi-year appointment.

1. Three-Year Appointment. By March 15 of an Assistant Professor of Lawyering Skills' second one-year term, s/he shall apply for a three-year appointment. The Committee shall review the staff member under the standards set forth in section IV. below and shall provide the staff member with a written evaluation based on the information collected. The Committee shall make its recommendation and provide notice of its decision to the staff member not later than March 15 of his/her third one-year term.

Upon recommendation of the Committee and the Dean, the Provost, subject to approval by the President, may appoint the staff member to a three-year term. A candidate who is denied a three-year term may be re-appointed for one final year.

2. Five-Year Appointment. During the fall and early winter of the third year of an Associate Professor of Lawyering Skills' three-year appointment, the Committee shall review the staff member under the standards set forth in section IV. below. The Committee shall make a written recommendation no later than February 1, regarding awarding a five-year appointment. Upon recommendation of the Committee and the Dean, the Provost, subject to approval by the President, may appoint the staff member to a five-year term.

A candidate who is not awarded a five-year appointment may be re-appointed to a final one-year appointment for the subsequent academic year.

3. Initiation of Faculty Review Process. By September 1 of the academic year in which a Review Committee decision is sought, the staff member shall submit to the chair of the Committee one copy of a candidate portfolio. Materials on which the staff member wishes to rely may be added to the candidate portfolio through December 15.

4. Submission of Candidate Portfolio. The staff member being reviewed shall submit to the Review Committee a Candidate Portfolio that includes:

- a. A curriculum vitae;
- b. A teaching dossier including a list of courses taught at the law school; the past years' syllabi; original course materials; and at least 3 critiqued student papers;
- c. An evaluation of the staff member written by the Director for the review process;
- d. Prior evaluations written by the Director;
- e. Two teaching evaluations written by two members of the Review Committee who have each viewed on videotape no more than two classes taught by the candidate;
- f. A copy of all published work;
- g. A list of law school committee assignments and service;
- h. A description of other service activities outside the law school;
- i. Scholarly works in progress or any other material the candidate deems relevant.

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C. Subsequent Five-Year Appointment Renewals. Subsequent five-year appointment renewals do not require Committee review, but may be made by the Dean in consultation with the Program Director.

IV. STANDARDS FOR APPOINTMENT TO A MULTI-YEAR APPOINTMENT TERM.

At the time of the first multi-year appointment review (during the third year), the staff member should have demonstrated progress toward, and the potential for meeting the standards set forth below. At the time of the initial five-year appointment review, and thereafter for subsequent five-year appointment renewals, the staff member should have demonstrated satisfaction of the standards set forth below, as well as a commitment to serving as a contributing member of the Program, the School of Law and the University.

A. Teaching. Teaching ability is the primary factor to be considered in evaluating lawyering skills staff members for hiring, retention, and promotion. The lawyering skills staff member will be required to perform in a number of capacities in carrying out his or her teaching responsibilities—person providing critique, classroom teacher, as well as colleague. Lawyering skills staff members should excel as teachers. Evaluation of the candidate's teaching performance shall include the following factors:

1. Ability to inspire students;
2. Accessibility to students;
3. Sound knowledge of legal analysis, legal writing techniques, and legal research sources and methodology;
4. Ability to provide well-organized and clearly presented lectures, to facilitate well-orchestrated class discussions, and to use a range of creative pedagogical methodologies that help students with different learning styles;
5. Ability to create a classroom atmosphere conducive to learning;
6. Production and selection of materials for use in teaching, including research and writing problems or exercises, samples, readings, and other teaching tools;
7. Ability to provide insightful, detailed critique of students' written work in written form and in one-to-one student conferences;
8. Concern for development and refinement of teaching methodologies; and,
9. Assistance to and stimulation of colleagues in developing problems, classes, teaching methodologies, and the Program

curriculum in general.

B. Contributions to Legal Education and/or the Legal Profession. Lawyering skills staff members are expected to have contributed to legal education and to the legal profession beyond their teaching activities. Such contributions may include: presenting papers; organizing conferences; providing training; consulting at law firms or within other relevant organizations; publishing articles; participating in national legal writing organizations or the organized bar; or producing teaching materials (including exercises or videotapes), briefs, memoranda, studies, statutes, or reports, as those formats may be appropriate to advance the state of legal writing pedagogy or legal education nationally. Such efforts may be the product of collaboration with other staff members, faculty members, or others in the academic and legal communities.

C. Service to the Legal Profession Program, the School of Law, or University Community. Lawyering skills staff members must have demonstrated an ability and willingness to perform appropriate service.

Lawyering skills staff are presumed to devote substantially all of their time to their teaching responsibilities, including classroom and one-on-one teaching, as well as assuming substantial administrative responsibilities for curriculum and Legal Profession Program development. Legal skills staff are expected to attend and participate in faculty meetings and provide service to the School of Law and the University. Where appropriate by reason of need, opportunity and expertise, service to the bar and the larger civic, social and cultural community may also be provided by legal skills instructional staff.

V. VOTING RIGHTS.

Lawyering skills staff are entitled to participate fully in Faculty Meetings. They are entitled to vote on all matters except:

- A. matters concerning appointments and promotions of tenure track faculty;
- B. changes in the status of the Lawyering Skills staff positions;
- C. conversions of the Lawyering Skills staff positions; and
- D. continuation of the Legal Profession Program.

VI. TERMINATION OF APPOINTMENTS

A. The Dean may terminate any appointment at any time, or may deny renewal of any appointment, only for adequate cause, such

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as the failure to fulfill an appointment obligation, moral turpitude, etc.

B. Pursuant to University policy, the School of Law reserves the right, in the case of financial exigency or discontinuance of a program or department of instruction, to terminate a lawyering skills staff member in the Legal Profession Program. The affected staff member will be given notice as soon as possible and never less than twelve months' notice.

No. 5

DEPAUL UNIVERSITY COLLEGE OF LAW

DEPAUL UNIVERSITY COLLEGE OF LAW
 CRITERIA FOR GRANT OF A FIVE-YEAR CONTRACT AS
 AN INSTRUCTOR OF LEGAL ANALYSIS, RESEARCH,
 AND COMMUNICATION (LARC)

These standards govern the granting of five-year contracts to LARC instructors. Overall, in order to merit a five-year contract, an instructor's performance must be outstanding. The "outstanding" standard is a stringent one. Instructors who are merely good or effective will not be deemed to meet the standard. The grant of a five-year contract is warranted only when an instructor's performance constitutes a significant and identifiable asset to the LARC program.

EXCELLENCE IN TEACHING LARC

Applicants for a five-year contract are expected to demonstrate outstanding, as opposed to merely good or effective, teaching of LARC. Among the factors to be evaluated in this regard are:

Success in bringing students to an acceptable level of performance with respect to the skills the course is designed to teach

Proficiency in stimulating students' critical thinking, synthesis ability, analytic reasoning ability, and communication

Effectiveness in leading class discussions

Creation of teaching and assignment materials that are appropriate to students' analytic capabilities and that are balanced, factually complete, and realistic

Provision of critiques of student work sufficient to enable students to learn the necessary material and progress from assignment to assignment

Provision of detailed comments on each piece of written work, tailored to the individual assignment that is being critiqued and that prescribe solutions by identifying what students should do to improve

Provision of critiques of student work that conceptualize the difference between effective and ineffective writing and analysis by explaining why one thing works while another

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does not, including global or “end” remarks to focus students’ attention on areas for improvement in succeeding assignments

Creation of appropriate scoring range on each assignment in order to produce a natural curve of final grades, thereby providing students with notice of their likely final grades

Maintenance of the required office hours and completion of the required conferences

Willingness to advise students on educational and professional objectives

Professional behavior in interacting with students in any capacity, including classroom teaching, holding office hours, and conducting conferences

LARC INSTITUTIONAL CITIZENRY

Applicants must demonstrate that they properly participate in and contribute to the LARC program. Programmatic citizenship must be outstanding, as opposed to merely good or effective. Among the factors to be evaluated in this regard are:

Cooperation with LARC director’s instructions and requests

Compliance with LARC Program policies

Timely responses to LARC director’s requests for information and director’s inquiries regarding program issues

Timely delivery to LARC director of all proposed assignments, assignment sheets distributed to students, graded papers, and other documents requested by director

Enforcement of LARC departmental policies and regulations, including late penalties and word limit penalties

Attendance at staff meetings

Exhibition of appropriate behavior toward colleagues

SERVICE TO THE COLLEGE OF LAW AND OTHER ACTIVITIES

The following factors will also be evaluated:

Committee membership

Contribution to the College of Law beyond classroom teaching, such as coaching moot court teams

Participation at College of Law activities (e.g., Admissions events, PILA auction, commencement, etc.)

Presentations at professional conferences

Other contributions to the operation and public reputation of the College of Law

No. 6

DRAKE UNIVERSITY LAW SCHOOL

DRAKE UNIVERSITY LAW SCHOOL
 PERFORMANCE STANDARDS
 AND PROCEDURES FOR EVALUATION
 AND PROMOTION OF FULL-TIME
 NON-TENURE TRACK FACULTY WITHIN THE
 LEGAL RESEARCH AND WRITING PROGRAM
 (Approved by Tenure Committee, October 31, 2002
 Adopted by the Faculty, November 21, 2002)
 (Recommendations to conform to ABA 405(C) & ABA 405-6)
 September 2005

1. INTRODUCTION

This statement is to inform legal research and writing faculty members ("LRW Faculty Members") of the procedures and practices governing decisions on retention and promotion. Such procedures and practices are subject to any applicable provisions of the Drake University Law School Faculty Handbook and the Faculty Manual of Drake University. The Dean and the Director of the LRW Program (hereinafter "Director"), after consulting with the LRW Faculty and such other Faculty committees as may be appropriate, may issue additional policies and procedures regarding evaluation, promotion, and other related matters, consistent with these and other Faculty policies and procedures.

The term LRW Faculty Member means an Assistant Professor of Law, Associate Professor of Law, or Professor of Law who has been placed on a legal writing track at Drake University Law School.

2. ROLE OF THE DIRECTOR, DEAN, AND THE RETENTION, PROMOTION AND TENURE SUBCOMMITTEE

The Director of the LRW Program, has the primary responsibility for the Program and supervision of the faculty teaching within it. The Director has the authority to recommend to the Dean appointment, reappointment, and non-reappointment of Assistant and Associate Professors teaching within the Program, and is responsible for providing the Dean with written advice on requests for promotion and long-term contracts submitted by the legal writing

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faculty. In matters concerning promotion, long-term contracts, and retention of LRW Faculty Members after three years of service, the Law School Retention, Promotion and Tenure Subcommittee, together with all LRW Faculty Members who are Professors of Law (collectively the "Committee") will review the LRW Faculty Member's work as outlined in this document. Once a LRW Faculty Member has been promoted to Professor of Law in accordance with these standards, the Dean shall be primarily responsible for the renewal of such faculty member's five year contract in accordance with Section 8(C)(2) herein. Such renewals do not require Director or Committee review, unless subject to Section 6(D) herein.

3. CATEGORIES OF LEGAL WRITING TRACK FACULTY MEMBERS

The three categories on the legal writing track are: Assistant Professor, Associate Professor, and Professor.

4. APPOINTMENT AND REAPPOINTMENT

A. Terms

(1) The initial appointment of a faculty member to a legal writing track position will ordinarily be at the rank of Assistant Professor. Persons with three or more years of full-time law teaching experience may be appointed at the rank of Associate Professor.

(2) A LRW Faculty Member hired at the rank of Assistant Professor shall be appointed initially for a term of one year and may be reappointed for:

- a) two additional terms of one year each, and then to
- b) a term of three years, if promoted to Associate Professor, and then to
- c) subsequent terms of five years each, if promoted to Professor.

These appointments are not on a tenure track.

(3) A LRW Faculty Member hired at the rank of Associate Professor shall be appointed initially for a term of one year and then may be reappointed for:

- a) a second term of one year, and then to
- b) a term of two years, and then to
- c) subsequent terms of five years each, if promoted to Professor.

These appointments are not on a tenure track.

(4) Retention at the expiration of a term for Assistant or Associate Professor described in this section is subject to the criteria set forth in Sections 5 and 6. Retention at the expiration of any term in this section is subject to any applicable faculty reductions as set forth in Section 4.B(3).

B. Notification

The law school will notify a LRW Faculty Member on a one- or a three-year contract of the decision of retention, promotion or non-reappointment by April 1 of the final year of the contract. A LRW Faculty Member on a five-year contract will be notified of the decision of non-retention no later than January 15 in the fifth year of the contract. The foregoing shall apply unless that deadline has been waived by the affected faculty member, or one of the following cases apply:

(1) Resignation. Notice that a LRW Faculty Member will terminate his or her service prior to the scheduled end of a term or does not plan to seek reappointment shall be given in writing as early as possible but, in any event, not later than March 1 of the academic year in which he or she is serving.

(2) Faculty Reductions Caused by Financial, Educational, or Programmatic Reasons. Pursuant to University policy, the Law School and/or University reserves the right, for educational, programmatic, or financial reasons, to reduce or eliminate full-time positions in the LRW Program and, upon five-month written notice, to terminate any multi-year appointment of an affected LRW Faculty Member.

5. CRITERIA FOR RETENTION AND PROMOTION

The four factors considered in retention and promotion decisions are quality of teaching, performance as a member of the LRW Program, service, and scholarship.

A. Teaching. The primary criterion for retention or promotion of LRW Faculty Members shall be demonstrated teaching ability. Among the factors considered in making this qualitative judgment are the extent to which the candidate has effectively:

- (1) taught focused and well-organized classes, using a variety of teaching methods to provide students with an understanding of the legal research, analysis, and writing process,
- (2) used and developed supplemental teaching materials,
- (3) designed challenging writing assignments that require the integration of research, analytical, and writing skills,

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(4) provided insightful, detailed critiques of student papers with written comments identifying the most significant writing and analytical problems and prescribing solutions,

(5) reviewed students' written work in a timely, comprehensive, and professional manner,

(6) conducted student conferences that help students understand their past mistakes and develop strategies for improving their future performance,

(7) provided sufficient access to students outside regularly scheduled conferences,

(8) improved, through refinement, development or new application, legal writing teaching methodology,

(9) fostered a successful learning environment, including being accessible to students, showing an interest and involvement in their development and welfare, and stimulating and inspiring students in their studies, and

(10) demonstrated familiarity with the published scholarship about the teaching of legal writing.

This portion of the assessment shall also include: (1) student evaluations and (2) teaching observations.

B. Program Contributions. In assessing the LRW Faculty Member's performance as a member of the LRW Program, the following shall be considered:

(1) The LRW Faculty Member's knowledge of, and commitment to, the goals of the LRW Program (the teaching of legal analysis, research skills, and writing skills),

(2) The LRW Faculty Member's active participation in the LRW Program (including the LRW Faculty Member's attendance at, and contributions to, staff meetings, and other instances of consultation with and assistance to the Director, other LRW Faculty Members, the Writing Consultant, and related personnel, such as the ASP Director).

C. Service. The candidate's service to the Law School, the University, the community, and the legal profession shall also be considered. Service may include, but is not limited to, participation and service on Law School or University committees, involvement and work in professional, civic, governmental, and religious organizations, and other forms of public service that benefit the individual, the public, the institution and the profession. Special consideration will be given to the service related work of the candidate which contributes to enhancing the reputation of the Law School or the University.

Public and professional service may also include publishing and lecturing for continuing legal education and bar review programs; delivering speeches; writing for or providing resources for non-scholarly publications such as newspapers, magazines, bar journals and similar communication media; substantial participation on or governance of bar association committees, judicial committees, and professional associations such as the State Bar, ABA, AALS, and Legal Writing Institute; providing pro-bono legal services, government service, public service consulting, legislative drafting, or other forms of voluntary non-compensated service to the community; serving as a resource on legal issues for organizations or the press.

D. Scholarship. LRW Faculty Members who seek promotion to Professor are expected to participate in activities designed to promote their growth as professionals. In light of the nature of the legal writing curriculum, the nature and quality of scholarship required of faculty whose primary responsibility is to teach legal writing shall be tailored to reflect the LRW Faculty Member's special interests and focus but shall be measured by common standards of thoroughness, analytical power, creativity and presentation. Scholarship may be satisfied not only by traditional forms of scholarship, but by written or other permanent works that enrich the legal writing curriculum. Examples include traditional law review articles, articles about substantive topics or legal education published in professional journals, books, treatises, practice manuals, studies or reports, revisions, supplements, statutes, course and simulation materials and litigation documents, including briefs and memoranda of law. To be considered for promotion to Professor a minimum of one work equivalent in length and quality to a traditional law review article shall be required. The work must have been completed after the faculty member came to Drake. LRW Faculty Members should advise the Committee if they have been awarded stipends or received other support for their scholarly work.

A LRW Faculty Member who is uncertain whether certain activities will satisfy the requirements of this section may obtain a determination from the Director. Such request and any approval shall be in writing.

E. Balancing of Standards

Although each of the standards must be satisfied in order for the LRW Faculty Member to be eligible for promotion or retention, it must be recognized that close questions may arise as to the satisfaction of particular standards.

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Furthermore, in such close cases, University or professional service, when particularly significant or valuable, can also be considered favorably in the promotion or retention decision. The recognition of and the weight to be accorded to a particular service contribution is a function of such factors as:

(1) its value to the Law School, the University, the profession, and society;

(2) the quality of work;

(3) the extent to which the experience contributes the LRW Faculty Member's development as a teacher or scholar.

F. Academic Freedom

A. The foregoing criteria will be applied by the Dean, Director and Committee with due regard for the preservation of academic freedom.

B. LW Faculty Members have academic freedom as defined in the University's Academic Charter.

6. RETENTION AND PROMOTION DECISIONS

In making decisions concerning promotion and long-term contracts, an attempt is made to judge not only the quality of the candidate's teaching, program contributions, service, and scholarship, but also the candidate's commitment to and capability of achieving sustained teaching excellence, program contributions, service, and continuing scholarship as essential elements of academic life.

A. Renewal: Assistant or Associate Professor: To justify the renewal in rank of the contract of an Assistant or Associate Professor, the candidate must have consistently demonstrated excellence with respect to the criteria for retention and promotion as set forth in Sections 5(A) (Teaching) and (B) (Program Contributions) and must have demonstrated solid progress towards the requirements for promotion to Professor.

B. Promotion to Associate Professor: To justify a promotion from Assistant to Associate Professor, the candidate must consistently demonstrate excellence with respect to the criteria for retention and promotion as set forth in Sections 5(A) (Teaching) and (B) (Program Contributions), demonstrate an ability and willingness to perform appropriate service under 5(C), and demonstrate solid progress towards the requirements for promotion to Professor.

C. Promotion to Professor: To justify a promotion from Associate Professor to Professor, the candidate must demonstrate excellence with respect to the criteria for retention and promotion as set forth in

Sections 5(A) (Teaching), (B) (Program Contributions), (C) (Service), and (D) (Scholarship).

D. Renewal: Professor: Once a faculty member has been promoted to Professor, the faculty member's five-year contract shall be renewed unless one of the following circumstances exists: (1) incompetence of the faculty member; (2) moral turpitude of the faculty member; (3) persistent inattention by the faculty member to duties; or (4) the faculty member's intransigent refusal to conform to law school and/or university process or policy where such behavior generates jeopardy to the law school and/or university.

7. SCHEDULES FOR PROMOTION

An Assistant Professor becomes eligible for consideration for promotion to the rank of Associate Professor after completing two years of service as an Assistant Professor. If granted, the promotion becomes effective at the beginning of the year following the year of review. A person promoted to Associate Professor becomes eligible for consideration for promotion to Professor after completing two years of service as an Associate Professor. If granted, the promotion becomes effective at the beginning of the year following the year of review.

A person initially appointed as an Associate Professor ordinarily becomes eligible for consideration for promotion to the rank of Professor after completing three years of service, with the promotion to be effective at the beginning of the year following the year of review.

A LRW Faculty Member must be reviewed for promotion by the year of eligibility as outlined above unless an extension is granted under sections 2.571-2.572 of the Law School Faculty Manual. A LRW Faculty Member who is denied a promotion cannot be granted a contract renewal.

A year of employment in this document means a complete academic year in which the individual served full-time in a law school legal writing position.

8. PROCESS

A. During each academic year the Director shall meet with each Assistant or Associate Professor regarding her or his progress toward retention and/or promotion.

B. (1) The Committee shall make recommendations regarding promotion in any year in which a LRW Faculty Member's

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(a) three-year contract will expire or

(b) single-year contract will expire if that LRW Faculty Member is eligible to request a promotion at the expiration of that single-year contract.

The Committee Chair shall convey to the candidate concerned the general content of the Committee's discussion and shall in particular inform the candidate of any matters that were perceived as weaknesses.

(2) The Dean shall be primarily responsible for retention decisions involving the renewal of a five-year contract.

C. Law School Process.

(1) Retention and/or Promotion of Assistant or Associate Professor: When review is required pursuant to Section 8B(1)(a) or 8B(2), the Committee shall begin its review of LRW Faculty Members during the fall semester and may incorporate the course evaluations for that semester. The Director shall provide the Committee with a report based on the annual evaluations and reviews by the Director of each LRW Faculty Member regarding her or his progress toward retention and/or promotion. A recommendation on retention or promotion from the Committee should be made to the Director by February 15 if a notification of non-reappointment must be made. Members of the Law Faculty may review copies of the Committee's report and candidate's file in the Director's office. The Director will submit his or her recommendation to the Dean with the Committee's report.

(2) When review is required pursuant to Part 8B(1)(b), the Dean shall review the Faculty Activity Reports submitted by the affected faculty member during the preceeding [sic] four years. If the Dean, after reviewing the Faculty Activity Reports of the affected faculty member, determines that there is cause for nonrenewal under Paragraph 6(D) herein, the Dean shall notify the Director and the Committee of such cause by October 1 of the fifth year of the affected faculty member's five-year contract. The Committee shall then review the reports and/or recommendations provided by the Dean and/or Director and shall conduct an independent review of the cause for nonrenewal. A final decision regarding the renewal of the five-year contract must be communicated to the affected faculty member no later than January 15 of the fifth year of the affected faculty member's five-year contract.

D. Teaching Observations. Each candidate for retention under B(1) or promotion under B(2) will be evaluated for teaching by at least one member of the Committee. Each Committee member chosen

to review a candidate will meet with the candidate before attending her or his classes to discuss the material to be covered, the educational goals of the candidate, and how the candidate expects to achieve these goals. Peer Teaching Evaluation Reports should cover the criteria set forth in section 2.41 of the Law School Faculty Handbook. Each Committee member who has written a Peer Teaching Evaluation Report will meet in person with the candidate to discuss the contents of the Report prior to its submission to the Committee. Student evaluation forms will be reviewed by the Committee and considered in its final report on teaching. Observation of candidates should be completed by November 15.

In addition to the mandatory evaluation by a member of the Committee, any candidate may select a tenured faculty member of his or her own choosing to review and report on his or her teaching. The Peer Teaching Evaluation Report prepared by this faculty member shall be submitted to the Committee and shall be considered by that Committee in preparing the final report.

E. Before making any final recommendations, the candidate shall be given the opportunity to present his or her views and to provide any further relevant information either in writing or by appearing personally.

F. For purposes of this review process, the Committee may operate through a subcommittee of not fewer than three members of the Committee.

HOFSTRA UNIVERSITY SCHOOL OF LAW

Standards and Procedures
for Appointment, Reappointment, and Promotion of
Clinical, Skills, Legal Writing, and Academic Support
Faculty¹

I. GENERAL PROVISIONS

1.01. Scope. These Standards and Procedures apply to internal Law School practices concerning recommendations by the Law School Faculty and Dean on initial appointments, reappointments, and promotions at the School of Law of Hofstra University for clinicians, skills teachers, legal writing teachers, and academic support teachers, as defined in section 1.05(a), (b), (g), and (h). These Standards and Procedures do not apply to the appointment of visiting teachers.

1.02. Purposes. These Standards and Procedures are intended to provide students with the highest quality instruction and to provide both students and the institution with the advantages of a competitive faculty in the clinical, legal writing, skills, and academic support fields, while insuring academic freedom for the teachers involved. These Standards and Procedures express the Law School Faculty and Dean's intentions with respect to substantive standards, governance rights, and the review process for making recommendations to the Provost and President on appointments and contract approvals. They do not create any contractual or reliance rights of any nature for any Faculty member subject to these Standards and Procedures. Faculty members subject to these Standards and Procedures have the same rights of academic freedom as tenured and tenure-track faculty at the Law School.

1.03. Effective Date. These Standards and Procedures are effective as of January 1, 2007 (the "effective date").

1.04. Prior Provisions Rescinded. As of the effective date, the following, including all their provisions, are rescinded, except to the extent they may govern during the transition period as provided in section 9.02 of these Standards and Procedures: Policy on Hofstra

¹ As adopted by the Hofstra Law School faculty, December 13, 2006.

Clinic's Faculty and Structure, adopted Dec. 18, 2002; Standards for the Dean and Faculty to Use in Determining Contract Renewal for Legal Writing Instructors, adopted Jan. 22, 1997; Procedures for Appointment, Renewal, and Promotion of Skills Teachers Other Than Those Who Teach in Clinics or Legal Writing Courses, adopted Oct. 10, 2005; Report of the Ad Hoc Committee on the Status of Legal Writing Instructors and Clinical Staff Attorneys, approved Dec. 12, 2001; Report of the Ad Hoc Committee on Instructor Voting, approved Apr. 24, 2004.

1.05. Definitions.

(a) "Academic support teacher" means a teacher who is not tenured or on tenure track and whose primary instructional responsibilities are to teach students how to learn and to respond to exams more effectively in law school and bar examination settings. "Academic support faculty" is a plural form of "academic support teacher."

(b) "Clinician" means a teacher who is not tenured or on tenure track and whose primary instructional responsibilities are in one or more courses in which students learn by providing legal representation or other professional services in Hofstra's in-house clinic.² "Clinical faculty" is a plural form of "clinician."

(c) "Committee" has the meaning assigned in section 3.01.

(d) "Effective date" and "effective date of these Standards and Procedures" have the meaning assigned in section 1.03.

(e) "Faculty member subject to these Standards and Procedures" means any of the teachers listed in section 1.01.

(f) "Law School Faculty" means the Law School's faculty, as a whole, including tenured and tenure-track faculty as well as faculty subject to these Standards and Procedures.

(g) "Legal writing teacher" means a teacher who is not tenured or on tenure track and whose primary instructional responsibilities are in courses which provide in-depth coverage of analytical writing (such as office memoranda), persuasive writing (such as motion memoranda and appellate briefs), and legal research, regardless of whether those skills are taught in courses required for graduation or in electives. "Legal writing faculty" is a plural form of "legal writing teacher."

(h) "Skills teacher" means a teacher who is not tenured or on tenure track and whose primary instructional responsibilities are

² Pursuant to section 2.05, the job title "clinical professor" and its variants are not limited to clinicians.

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(i) in courses on trial advocacy, negotiation, mediation, counseling, the drafting of instruments, or other professional skills

(ii) but not in courses in which students represent actual clients

(iii) and not in courses on the skills listed in 1.05(g).

“Skills faculty” is a plural form of “skills teacher.”

II. CONTRACTS, PROMOTION, AND PARTICIPATION IN GOVERNANCE

2.01. Duration of Contracts (in Years). Hofstra offers faculty members subject to these Standards and Procedures the following types of contracts:

(a) an initial contract of two years,

(b) if the faculty member satisfies the applicable standards for reappointment, a second contract of two years,

(c) if the faculty member satisfies the applicable standards for reappointment, a third contract of two years,

(d) if the faculty member satisfies the applicable standards for a long-term contract, an initial contract of five years, and

(e) if the faculty member satisfies the applicable standards for reappointment and a long-term contract, subsequent contracts of five years.

If a faculty member subject to these Standards and Procedures fails to satisfy the applicable standards for a subsequent contract, Hofstra may not offer that faculty member a teaching contract of any duration, except for a one-year terminal contract, which Hofstra may but is not required to offer. On the recommendation of the Law School Faculty and Dean, Hofstra may offer to a newly hired faculty member who has prior law school teaching experience any of the contracts provided for in subsections (a) through (d) of this section, depending on the nature and extent of that faculty member's prior law school teaching experience or experience of equivalent value, but a contract of the type provided for in subsection (d) must be approved by the Faculty. If a position occupied by a faculty member subject to these Standards and Procedures is funded mostly through grants or other forms of soft money, Hofstra may offer, instead of the contracts provided for in this section, a shorter contract, including a contract that terminates when a grant terminates.

2.02. Length of Contracts (in Months of Teaching per Year). At the discretion of the Dean, Hofstra may offer an academic support teacher a contract requiring nine, ten, or eleven months of student-contact teaching per year. At the discretion of the Dean, Hofstra may

offer any other faculty member subject to these Standards and Procedures a contract requiring nine months of student-contact teaching per year. A teacher subject to these Standards and Procedures has additional obligations preparing to teach, contributing to the field, and performing service, and these obligations will normally involve at least some work in months not devoted to student-contact teaching.

2.03. Termination of Contract or Nonrenewal Despite Presumption Because of Financial Exigency or Bona Fide Discontinuance of a Relevant Program of Instruction. If the University experiences a financial exigency or bona fide discontinues or materially modifies a relevant program of instruction, Hofstra is expected to make every effort to place a faculty member subject to these Standards and Procedures in another suitable position. If no suitable position can be found and it becomes necessary to dismiss the faculty member by terminating the faculty member's contract or by declining to renew a contract despite the presumption provided for in sections 4.01, 5.01, 6.01, and 7.01, he or she should be given notice as soon as possible, but never less than twelve months or in lieu thereof be given severance salary for one academic year. Hofstra shall not fill the dismissed faculty member's place with a replacement within two years after notice of dismissal, unless the dismissed faculty member has been offered reappointment and given a reasonable time within which to accept or decline it.

2.04. Termination of Contract Because of "Adequate Cause." This dismissal is related directly and substantially to the fitness of the faculty member in his or her professional capacity as a teacher or researcher. It will not infringe on his or her right to exercise academic freedom or his or her rights as an American citizen. For procedure, the University subscribes to the A.A.U.P. Statement on Procedural Standards in Faculty Dismissal Proceedings.

2.05. Job Titles and Academic Rank. A clinician's job title and rank is Assistant Clinical Professor, Associate Clinical Professor, or Clinical Professor. A skills teacher's job title and rank is Assistant Clinical Professor, Associate Clinical Professor, or Clinical Professor. A legal writing teacher's job title and rank is Assistant Professor of Legal Writing, Associate Professor of Legal Writing, or Professor of Legal Writing. An academic support teacher's job title and rank is Assistant Professor of Academic Support, Associate Professor of Academic Support, or Professor of Academic Support.

2.06. Promotion. During the contract provided for in section 2.01(a), the rank of a faculty member subject to these Standards and

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Procedures is the assistant professorial rank relevant to that faculty member's field. During the contracts provided for in section 2.01(b) and (c), the rank of a faculty member subject to these Standards and Procedures is the associate professorial rank relevant to that faculty member's field. During the contracts provided for in section 2.01(d) and (e), the rank of a faculty member subject to these Standards and Procedures is the full professorial rank relevant to that faculty member's field.

2.07. Participation in Governance. During each of the contracts provided for in section 2.01, a faculty member subject to these Standards and Procedures

(a) may vote in Law School Faculty meetings on all issues except the questions of whether to amend these Standards and Procedures and whether to appoint, reappoint, or promote a specific person, (however, a faculty member who has a contract provided for in section 2.01 (d) or (e) may vote in a Faculty meeting on the question of whether to make an appointment, reappointment, or promotion that would involve awarding a contract provided for in section 2.01 (d) or (e));

(b) may be present in Law School Faculty meetings, regardless of the issue under consideration (except that a faculty member holding a contract provided for in section 2.01(a), (b), or (c) may not be present when the Faculty considers whether to award a contract provided for in section 2.01(d) or (e), and an applicant for reappointment may not be present while the application is under consideration);

(c) may vote in Law School committees on all issues, except as provided in section 3.01; and

(d) has an obligation to perform service on law school committees that is not less than the obligation of faculty members not subject to these Standards and Procedures.

III. PROCEDURES FOR APPOINTMENT, REAPPOINTMENT, AND PROMOTION

3.01. Committee on Appointment, Reappointment, and Promotion of Clinical, Skills, Legal Writing, and Academic Support Faculty. Each year, the Dean shall appoint a Committee on Appointment, Reappointment, and Promotion of Clinical, Skills, Legal Writing, and Academic Support Faculty (the "Committee"). The Committee may include as voting members faculty members subject to these Standards and Procedures who have one of the contracts provided for in section 2.01(d) and (e). It may also include

other faculty members subject to these Standards and Procedures, as voting members for the purposes of awarding a contract provided for in section 2.01(a) and as nonvoting members for other purposes.

3.02. Procedures for Initial Appointments. The Committee shall review applications for vacancies and recommend to the Dean applicants for initial appointments. For clinician appointments, the Committee and the Dean shall decide the subject matter of the clinic the successful applicant will teach and shall report that decision to the Law School Faculty in writing before the position is advertised. If the result would be creation of a new clinic, the Law School Faculty must approve the clinic as a new course before the successful applicant is appointed. For new types of skills faculty positions, the Law School Faculty must approve the type of position before the first appointment to it.

3.03. Application for Reappointment; Application for Promotion. An application for contract reappointment that, if successful, would result in the award of a contract specified in section 2.01(b) or 2.01(d) is automatically also an application for promotion as provided in section 2.06. The Committee chair, the Faculty, and the Dean have discretion to alter the schedules set out in sections 3.04, 3.05, and 3.06, which are intended solely to make the work of the Committee and its subcommittees and the Faculty efficient. A failure on the part of the Committee, its subcommittees, its chair, the Faculty, or the Dean to meet any part of this schedule does not create prejudice to an application for reappointment or give an applicant for reappointment rights in addition to those the applicant would have anyway under University regulations.

3.04. Schedule Concerning Applications for Reappointment with a Two-Year Contract.

(a) By August 31 each year, the Committee chair shall do the following for each faculty member subject to these Standards and Procedures who is in the final year of a contract and is eligible to apply for reappointment with a contract provided for in section 2.01(b) or (c), unless that faculty member has informed the Dean's office that she or he does not wish to apply for reappointment:

(i) appoint a three-person subcommittee to review the faculty member's application for reappointment and

(ii) provide the faculty member with a copy of these Standards and Procedures as well as the names of the members of the faculty member's subcommittee.

(b) By September 30, a faculty member subject to these Standards and Procedures who wishes to apply for reappointment

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shall submit to the members of her or his subcommittee the following:

(i) a personal statement containing a list of the courses or activities the applicant has taught and an explanation of the approach the applicant has taken to teaching those courses or activities, a list and description of the applicant's contributions to the field, service activities, or both relevant to section 4.03, 5.03, 6.03, or 7.03, and any other information the applicant wishes to convey to the Committee;

(ii) a current curriculum vitae;

(iii) representative syllabi, written assignments, and other teaching materials;

(iv) for courses in which the faculty member marks up written student work for review by the student, a reasonable-sized portfolio of marked-up student work;

(v) copies of written contributions to the field relevant to section 4.03, 5.03, 6.03, or 7.03; and

(vi) any other materials the faculty member wishes to have considered.

The applicant may supplement this submission with additional material at any time before the Committee or Faculty reaches a decision.

(c) By November 1, the subcommittee shall submit to the Committee written reports of its observations of the applicant's fall semester teaching and its evaluations of the applicant's contributions to the field and service.

(d) By December 1, the Committee shall decide whether to recommend reappointment and shall communicate that decision and the reasons for it in a written report to the Dean.

(e) By December 5, the Committee shall provide the applicant with a copy of its written report.

(f) By January 15, the Dean shall communicate to the applicant the Dean's decision on the application.

3.05. Schedule Concerning Applications for Reappointment with a Faculty Member's First Five-Year Contract.

(a) By August 31 each year, the Committee chair shall do the things required by section 3.04(a) for each faculty member subject to these Standards and Procedures who is in the final year of a two-year contract and is eligible to apply for reappointment with a contract provided for in section 2.01(d), unless that faculty member has informed the Dean's office that she or he does not wish to apply for reappointment.

(b) By September 30, a faculty member in the final year of a two-

year contract who is eligible to and wishes to apply for reappointment with a first five-year contract shall submit to the members of her or his subcommittee the following:

(i) a personal statement containing a list of the courses or activities the applicant has taught and an explanation of the approach the applicant has taken to teaching those courses or activities, a list and description of the applicant's contributions to the field, service activities, or both relevant to section 4.03, 5.03, 6.03, or 7.03, and any other information the applicant wishes to convey to the Committee;

(ii) a current curriculum vitae;

(iii) representative syllabi, written assignments, and other teaching materials;

(iv) for courses in which the faculty member marks up written student work for review by the student, a reasonable-sized portfolio of marked-up student work;

(v) copies of written contributions to the field relevant to section 4.03, 5.03, 6.03, or 7.03; and

(v) any other materials the faculty member wishes to have considered.

The applicant may supplement this submission with additional material at any time before the Committee or Faculty reaches a decision.

(c) By November 15, the subcommittee shall submit to the Committee written reports of its observations of the applicant's fall semester teaching and its evaluations of the applicant's contributions to the field and service.

(d) By November 30, the Committee shall meet for a preliminary discussion of each applicant's application for reappointment with a five-year contract.

(e) By February 15, the subcommittee shall submit to the Committee written reports of its observations of the applicant's spring semester teaching.

(f) By March 15, the Committee shall decide whether to recommend reappointment and shall communicate that decision and the reasons for it in a written report to the Law School Faculty and Dean.

(g) By March 20, the Committee shall provide the applicant with a copy of its written report.

(h) By April 15, the Law School Faculty shall decide that application.

(i) By May 1, the Dean shall communicate to the applicant the

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Dean's decision on the application.

3.06. Schedule Concerning Applications for Reappointment where a Faculty Member's Already Has a Five-Year Contract.

(a) By August 31 each year, the Committee chair shall do the things required by section 3.04(a) for each faculty member subject to these Standards and Procedures who is in the final year of a five-year contract and is eligible to apply for reappointment with a contract provided for in section 2.01(e), unless that faculty member has informed the Dean's office that she or he does not wish to apply for reappointment.

(b) By September 15, a faculty member in the final year of a five-year contract who wishes to apply for reappointment with a subsequent five-year contract shall submit to the members of her or his subcommittee the following:

(i) a cover memo containing a list of the courses or activities the applicant has taught during the current contract, a list of the applicant's contributions to the field, service activities, or both relevant to section 4.03, 5.03, 6.03, or 7.03, and any other information the applicant wishes to convey to the Committee;

(ii) a current curriculum vitae;

(iii) copies of written contributions to the field relevant to section 4.03, 5.03, 6.03, or 7.03; and

(iv) any other materials the faculty member wishes to have considered.

The applicant may supplement this submission with additional material at any time before the Committee or Faculty reaches a decision.

(c) By September 30, the subcommittee shall inform the applicant either that the abbreviated submission required by section 3.06(b) will be sufficient to permit the committee to conduct its review or that the committee will need the more detailed materials set out in section 3.05(b). If the committee requests the materials set out in section 3.05(b), the applicant shall submit them by October 15.

(d) The subcommittee, Committee, Faculty, and Dean shall follow the schedule set out in section 3.05(c) through (i), including the reports required by those subsections.

3.07. Subcommittee Procedures for Reappointment Applications. The subcommittee shall review the applicant's student evaluations and shall review the material submitted by the applicant pursuant to section 3.04(b), 3.05(b), or 3.06(b) and any other material the subcommittee considers relevant. In each semester during which the Committee considers an application for reappointment, the

applicant's subcommittee shall also

- (a) observe one or more of the applicant's classes;
- (b) observe one or more of the applicant's conferences with students; and
- (c) if the applicant is a clinician, observe one or more of the clinician's supervision of students in practice (performances in court, negotiations, client counseling).

Where a successful application would result in a contract provided in section 2.01(d), each member of the subcommittee shall do each of the observations specified in subdivisions (a) through (c) of this section. For other applications, it is not necessary for every member of the applicant's subcommittee to do every one of the observations.

3.08. Committee and Law School Faculty Procedures for Reappointment Applications. The Committee shall consider the report of the applicant's subcommittee and shall produce its own written report as specified in sections 3.04(d), 3.05(f), and 3.06(d). An application for reappointment with a five-year contract must be approved by the Law School Faculty.

3.09. Notice to Initially Hired Faculty Members Subject to these Standards and Procedures. Within 30 days after a faculty member subject to these Standards and Procedures first reports for work, the Dean's office shall provide the faculty member with a copy of these Standards and Procedures. A failure on the part of the Dean's office to do so does not create rights in addition to those the applicant would have anyway under University regulations.

VI. REAPPOINTMENT AND PROMOTION STANDARDS FOR LEGAL WRITING FACULTY

6.01. General Standard for Reappointment. To obtain a contract provided for in section 2.01 (b), (c), or (d), a legal writing teacher must demonstrate a degree of excellence appropriate to the legal writing teacher's length of experience in legal education. A legal writing teacher seeking a contract provided for in section 2.01(e) is presumed to have demonstrated excellence, and except for the circumstances provided in section 2.03, the Faculty and Dean shall recommend that Hofstra award the contract unless the Faculty or Dean find a significant decline in the legal writing teacher's performance in regard to either the criteria set out in section 6.02 or the criteria set

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out in section 6.03. Of the three categories to be evaluated—teaching, contributions to the field, and service—teaching is the most important in all renewals. Outstanding contributions to the field and service do not compensate for deficiencies in teaching.

6.02. Specific Standards—Teaching. A reasonable review of a legal writing teacher's performance may consider, among other things, the following:

- (a) development of course plans;
- (b) classroom teaching, including developing goals for individual classes and using effective methods to accomplish them;
- (c) designing assignments that challenge students;
- (d) evaluating papers by recognizing the difference between effectiveness and ineffectiveness and marking papers with comments that inform and persuade the student;
- (e) teaching professional thinking by showing students how to make professional decisions through evaluation of options and choosing the most effective one;
- (f) conducting student conferences effectively through comments and questions that stimulate learning;
- (g) administering courses effectively; and
- (h) exercising professional sound judgment.

6.03. Specific Standards—Contributions to the Field and Service. In addition to the re-appointment standards set forth in section 6.02, an applicant shall make contributions to the field, provide service, or both.

(a) Contributions to the Field. Contributions may include, but are not limited to: publications (including short articles in journals for law teachers or lawyers); empirical research, presentations at national or regional conferences, participation in organizing national or regional conferences; producing teaching materials (including assignments) used at other law schools; briefs in litigation, drafting and proposing statutes; testimony before legislative committees or administrative agencies. An applicant's contributions to the field are not expected to equal those of members of the tenure-track faculty because the applicant's teaching is assumed to be much more labor-intensive than teaching done by most tenured and tenure-track faculty.

(b) Service. Service may include, but is not limited to the following: fulfilling administrative responsibilities within the Law School; coordinating the legal writing program; carrying a fair share of the responsibility for designing assignments and exercises used by the instructors as a group; helping newly hired legal writing faculty

set up their courses and improve their teaching, serving valuably on Law School or University committees; advising students; teaching in courses sponsored by the National Institute for Trial Advocacy or in other continuing legal education courses, serving outside the University by using professional abilities to help, in significant ways, the community, the legal profession, or the teaching profession, including active participation in professional organizations.

VII. REAPPOINTMENT AND PROMOTION STANDARDS FOR ACADEMIC SUPPORT FACULTY

7.01. General Standard for Reappointment. To obtain a contract provided for in section 2.01 (b), (c), or (d), an academic support teacher must demonstrate a degree of excellence appropriate to the academic support teacher's length of experience as a teacher. An academic support teacher seeking a contract provided for in section 2.01(e) is presumed to have demonstrated excellence, and except for the circumstances provided in section 2.03, the Faculty and Dean shall recommend that Hofstra award the contract unless the Faculty or Dean find a significant decline in the academic support teacher's performance in regard to either the criteria set out in section 7.02 or the criteria set out in section 7.03. Of the three categories to be evaluated—teaching, contributions to the field, and service—teaching is the most important in all renewals. Outstanding contributions to the field and service do not compensate for deficiencies in teaching.

7.02. Specific Standards—Teaching. A reasonable review of an academic support teacher's performance may consider, among other things, the teacher's work developing and operating a comprehensive academic support program that

- (a) teaches students in general how to learn in a law school and respond to law school exams more effectively;
- (b) addresses the pedagogical needs of minority students;
- (c) addresses the pedagogical needs of students admitted with low LSAT scores, undergraduate grade point averages, or both;
- (d) addresses specialized student learning needs such as those for whom English is a second language and those who have learning disabilities or attention deficit disorder;
- (e) contributes to students' preparation for the bar exam;
- (f) reflects the exercise of sound professional judgment.

7.03. Contributions to the Field and Service. In addition to the re-appointment standards set forth in section 7.02, an applicant shall make contributions to the field, provide service, or both.

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(a) **Contributions to the Field.** Contributions may include, but are not limited to: publications (including short articles in journals for law teachers or lawyers); empirical research; presentations at national or regional conferences; participation in organizing national or regional conferences; producing teaching materials (including assignments) used at other law schools, briefs in litigation; drafting and proposing statutes; testimony before legislative committees or administrative agencies. An applicant's contributions to the field are not expected to equal those of members of the tenure-track faculty because the applicant's teaching is assumed to be much more labor-intensive than teaching done by most tenured and tenure-track faculty.

(b) **Service.** Service may include, but is not limited to the following: fulfilling administrative responsibilities within the Law School; serving valuably on Law School or University committees; advising students; teaching in courses sponsored by the National Institute for Trial Advocacy or in other continuing legal education courses; serving outside the University by using professional abilities to help, in significant ways, the community, the legal profession, or the teaching profession, including active participation in professional organizations.

VIII. SPECIAL PROVISIONS REGARDING CLINICS

8.01. **Clinic Director.** The Dean shall appoint a director for clinical programs who, in addition to teaching a clinical program, shall coordinate support staff; manage the clinical program's budget, malpractice insurance, and law office procedures; train and supervise the training of new clinicians; oversee the representational activities of the clinicians and their students and monitor the quality of the legal services being provided to clients; consult on cases; coordinate peer review for clinicians; coordinate inter-clinic teaching; coordinate case coverage during summer and other vacation periods; foster nonclinical faculty's participation in the clinical programs; manage clinic fundraising, including grant and project development; and manage clinic alumni and external relations.

8.02. **Case Coverage.** The clinicians shall cover clinic cases (including those supervised by tenure-track and tenured faculty) when cases would otherwise be unattended because the supervising teacher is not teaching, except to the extent that the dean, in his discretion, makes other arrangements for case coverage in consultation with the clinicians and the clinic director.

IX. TRANSITION PROVISIONS

9.01. Clinical, Skills, Legal Writing, and Academic Support Faculty Whose Initial Contract Begins AFTER the Effective Date of these Standards and Procedures. Without exception or special provisions, these Standards and Procedures govern the appointment and employment of all clinical, skills, legal writing, and academic support faculty whose initial contract begins after the effective date provided for in section 1.03.

9.02. Clinical, Skills, Legal Writing, and Academic Support Faculty Whose Initial Contract Began BEFORE the Effective Date. For clinical, skills, legal writing, and academic support faculty whose initial contract began before the effective date:

(a) Except as provided in this section, these Standards and Procedures govern beginning on the effective date.

(b) A visiting teacher is not governed by these Standards and Procedures during the visitorship. If a visiting teacher applies for a contract provided for in section 2.01(a), that application is governed by these Standards and Procedures.

(c) Beginning on the effective date,

(1) the job title and rank of a faculty member subject to these Standards and Procedures who has taught in legal education for two years or less as of the effective date is converted to the assistant professorial job title and rank relevant to that faculty member's field pursuant to section 2.05; and

(2) the job title and rank of a faculty member subject to these Standards and Procedures who already has a full professorship is converted to the full professorial job title and rank relevant to that faculty member's field pursuant to section 2.05

(3) the job title and rank of every other faculty member subject to these Standards and Procedures is converted to the associate professorial job title and rank relevant to that faculty member's field pursuant to section 2.05.

(d) A contract existing or already awarded on the effective date continues until it expires. If the faculty member is not a visitor, the faculty member may apply for one of the following at the beginning of the final academic year of that contract or earlier:

(1) reappointment with a one-year contract, the application to be evaluated through the procedures specified in sections 3.03-3.06 and under the relevant prior standards otherwise rescinded pursuant to section 1.04, but only if the faculty member's existing contract expires on or before September 1, 2007;

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(2) automatic reappointment with a one-year contract, without any performance review, but only if the faculty member has a four-year contract that expires before September 1, 2007; or

(3) reappointment with a contract specified in section 2.01(b), (c), or (d) that is appropriate to the faculty member's experience as a legal educator, the application to be evaluated entirely pursuant to these Standards and Procedures. A faculty member who on the effective date holds a four-year contract and who applies for a contract specified in section 2.01(d) is presumed to satisfy the criteria applicable to a section 2.01(d) contract and will be evaluated according to the procedure set out in section 3.06.

(e) After a faculty member is awarded a contract provided for in subsection (d) of this section, these Standards and Procedures govern any subsequent applications for reappointment applied for by that faculty member.

2007]

LEGAL WRITING FACULTY

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No. 8

INDIANA SCHOOL OF LAW—INDIANAPOLIS

LAW SCHOOL STANDARDS AND PROCEDURES
GOVERNING ANNUAL REVIEWS, PROMOTION,
AND THE ATTAINMENT OF TENURE OR
LONG-TERM CONTRACT STATUS
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COMMITTEE CALENDAR

*First Committee Meeting: Elect Chair and representative to the University Promotion and Tenure Committee.

*October 1: Promotion and tenure/long-term contract files due to Committee.

*No later than November 1: Committee makes its recommendation and reports on applications for promotion and tenure/long-term contracts.

*January 15: At the beginning of the Spring semester, Chair to appoint mentors for new faculty members. Notice of annual review and appointment of reporters.

*Thirty days before March 1: Dean to request summary report from holder of long-term contract if necessary to determine if cause for non-renewal exists.

*February 15: Reviewees provide reporter with completed annual review forms and attachments.

*March 15: Chair to give notice to persons seeking promotion or tenure/long-term contract calling for indication of intent.

*April 1: Annual reviews to be completed.

*April 15: Committee recommendation regarding non-renewal of long-term contract.

*May 15: Persons seeking promotion or tenure/long-term contract to inform Chair of intention.

No later than May 15: Candidates for promotion and tenure/long-term contracts shall meet with the Associate Dean for Academic Affairs in order to compile a list of persons from whom outside reviews will be solicited.

*June 15: Chair appoints subcommittees for promotion and tenure/long-term contract applicants.

COMMITTEE RESPONSIBILITIES AND PROCEDURES

I. ADVICE AND COUNSEL

A. The Associate Dean for Academic Affairs shall meet with newly appointed faculty members early in the first semester of their appointment to provide information regarding the promotion, tenure or long-term contract process. The Associate Dean, Committee Chair, and newly appointed faculty member shall meet at the beginning of the second semester of the faculty member's appointment to discuss selection of a mentor. On the basis of this discussion, the Chair shall

then appoint a member of the Committee to act as the newly appointed faculty member's mentor. The Committee member so appointed shall ordinarily serve as mentor for the appointee throughout the latter's probationary period, but at the request of the probationary faculty member or upon the request or inability to serve of the mentor, a new mentor may be appointed.

It shall be the mentor's responsibility to meet regularly with the candidate and to provide general advice and counsel about the annual review, reappointment, promotion, tenure, and long-term contract process. The Chair shall take such steps as are necessary to assure that the mentoring process is working satisfactorily.

B. The Chair of the Committee, the Associate Dean for Academic Affairs, the Directors of Clinical and Legal Analysis, Research and Communication (LARC) programs, and all tenured and long-term contract clinical ranks faculty shall also be available to provide advice and counsel to probationary appointees on all matters within the Committee's responsibility.

II. DEFINITIONS.

For purposes of this document, the following definitions apply:

A. Tenured faculty are persons who have achieved tenure.

B. "Tenure-Track" faculty or faculty members are persons holding probationary appointments leading to appointment with tenure.

C. "Clinical Ranks" faculty or faculty members are persons holding probationary appointments leading to award of a long-term contract and persons awarded and holding such long-term contracts. Such persons are also referred to in the Faculty Constitution as persons holding "tenure-like positions". Clinical ranks faculty teach in the law school's clinical program and in the law school's LARC program.

D. Probationary Faculty are faculty members who have not achieved tenure or a long-term contract.

III. PERSONS SUBJECT TO EVALUATION.

The following faculty members are subject to evaluation by the Committee:

(a) All probationary faculty members are subject to annual review and to determinations of renewal or non-renewal of appointments during the probationary period.

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(b) Probationary faculty members who seek and award of tenure or an award of a long-term contract are subject to Committee decision regarding these awards. In the case of tenure, the Committee's decision is a (favorable or unfavorable) recommendation to the university. In the case of a long-term contract, a decision is made in accordance with the procedure set forth in section VI, B *infra* is final.

(c) Probationary faculty seeking promotion and non-probationary faculty seeking promotion are subject to Committee decision regarding promotions in rank. The Committee's decision is a (favorable or unfavorable) recommendation to the university.

(d) Clinical ranks faculty who hold a long-term contract (non-probationary clinical ranks faculty members) are subject to Committee decision regarding renewal of long-term contracts. The Committee's decision is final.

IV. ANNUAL REVIEWS

A. University Standards

The University standards for promotion, tenure and the achievement and renewal of a long-term contract are set for the in the INDIANA UNIVERSITY ACADEMIC HANDBOOK and any recent amendments thereto. Further information is contained in the IUPI SUPPLEMENT to the HANDBOOK. As well, relevant information is contained in the Guidelines for the Preparation of Tenure and Promotion Dossiers prepared annually by the Dean of the Faculties of IUPUI. Candidates should refer to these documents for relevant criteria, standards, forms, and procedures.

B. Probationary Faculty

1. Probationary faculty are subject to annual review. No later than January 15, the Chair shall notify persons subject to annual review of their responsibilities for providing relevant information for the Committee's annual review process. Notice to reviewees shall also indicate whether the pending annual review includes a reappointment decision, indicate the deadline for submission of materials, and include copies of Committee annual review forms. For each person subject to annual review, the Chair shall appoint a member of the Committee other than the reviewee's mentor to serve as a Reporter. Faculty members who have achieved tenure or a long-term contract and remain at the rank of Associate Professor may choose to be subject to annual review by so notifying the Chair.

2. On February 15, or on such other date as the Chair selects, the reviewee shall provide his or her Reporter with completed forms

and appropriate attachments including a copy of the reviewee's last annual review report, if any, peer reviews of teaching, and a summary and representative samples of student evaluations of teaching for the period since the last annual review. (For the form which other evidence of teaching effectiveness might take, see Guidelines for Faculty Subject to Annual Review at V, B, 6 *infra* and Committee Standards relating to teaching at II, A, 1, and II, B, 1 *infra*.)

3. Annual reviews of any reviewees up for reappointment shall be scheduled so that the Committee may conclude its consideration in time to meet the University's deadlines for reappointment decisions.

4. At least three days before the meeting at which the reviewee will be reviewed, the Reporter shall provide all Committee members with copies of the reviewee's form and appropriate attachments.

5. At the Committee meeting, the Reporter shall make a brief report on, and shall be prepared to answer questions concerning, the reviewee's record and performance. Faculty members undergoing annual review may attend that portion of the Committee meeting at which his or her file is discussed in order to provide additional information for the Committee. Faculty members undergoing annual review should also be available during the meeting in the event that the Committee has further questions concerning the reviewee's performance. In all cases, reviewees shall be excused during discussion and voting.

6. After discussion, and except in the case of reviewees in their first year of service on the faculty, each Committee member shall declare by secret ballot the probability that he or she will later vote to award tenure or a long term contract to the reviewee. In appropriate cases, the Committee will also vote on whether it recommends reappointment.

7. Promptly following the meeting at which a faculty member is considered, the Chair shall, if practicable, report orally to the reviewee any action taken by the Committee.

8. Promptly following the meeting, it shall be the responsibility of the respective Reporters to provide a draft report summarizing the Committee's discussion with respect to teaching, scholarship/creative activity, and service of the reviewee to whom the Reporter was assigned. The Chair shall circulate drafts for Committee comment. Upon Committee approval, the original and one copy of the Committee's report together with a report of any votes taken by the Committee shall be provided to the reviewee. The reviewee shall sign the original, return it to the Chair, and retain the copy for his or her

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records.

9. Clinical ranks faculty who hold long-term contracts shall participate as full Committee members in the annual review of probationary clinical ranks faculty.

V. GUIDELINES FOR FACULTY SUBJECT TO ANNUAL REVIEW

Except as specifically indicated otherwise, these guidelines apply to all probationary faculty.

A. General Principals: The burden of proof is on candidates for tenure, promotion, or long-term contract to present evidence of performance satisfying university and Law School standards. Annual reviews are intended to be annual assessments of progress in satisfying these requirements. It is therefore expected that probationary faculty will submit evidence sufficient to allow the Committee to make these assessments.

B. Guidelines

1. The Committee expects that probationary faculty will submit student evaluations for each class taught in each semester on forms approved by the Committee.

2. The Committee expects that all probationary faculty will submit at least one peer review of teaching for each class taught in each semester. The Committee expects that faculty who plan to establish teaching as an area of excellence will need to submit additional peer reviews to support their case.

3. The Committee expects that probationary faculty will, over the course of the probationary period, seek and obtain peer reviews of teaching from a variety of Committee members, rather than several reviews from few members. In the case of probationary clinical ranks faculty, reviews by clinical ranks faculty members holding long-term contracts will be considered peer reviews.

4. The Committee expects that all tenure-track faculty will submit evidence of active scholarly activity, including publication. The Committee further anticipates tenure-track faculty will normally seek promotion and tenure on the basis of excellence in scholarship. In such cases, the Committee expects evidence of the development and execution of a substantial research agenda leading to a national reputation for scholarship in the candidate's scholarly field. This paragraph do [sic] not apply to probationary clinical ranks faculty.

5. The Committee expects all probationary faculty to produce evidence of active service to the law school, university, or community. In the case of a probationary faculty member who expects to seek a

long-term contract or tenure on the basis of service, the Committee expects substantial evidence and exceptional service activities that make important and substantial contributions to the national reputation of the law school. Mere fulfillment of assigned Committee duties will not constitute important and substantial contributions.

6. The Committee expects all probationary faculty to submit evidence of satisfactory teaching. In the case of a probationary faculty member who expects to seek a long-term contract or tenure on the basis of teaching, the Committee expects substantial evidence of excellence in a classroom or other instructional setting. In addition, the Committee expects evidence of a national reputation of excellence in teaching. Such evidence will normally include original and substantial teaching materials (such as published or unpublished casebooks, problems, computer lessons, et cetera), published writing about teaching and legal education, and participation in organizations, conferences, workshops, et cetera, devoted to teaching.

7. Candidates should retain all materials submitted in annual review for use in preparing applications for promotion, long-term contracts, and tenure.

VI. PROMOTION AND TENURE/LONG-TERM CONTRACTS

A. General Procedures for All Probationary Faculty

1. No later than March 15, the Chair shall inform probationary faculty members that notice of intent to apply for promotion, tenure, or a long-term contract in the next academic year must be provided to the Chair no later than May 15.

2. As soon as possible, and in no case later than May 15, the candidate should meet with the Associate Dean for the Academic Affairs in order to compile a list of outside reviewers. Reviews should be solicited as soon as practicable.

3. No later than June 15, the Chair shall appoint a subcommittee for any person who has given notice of intent to seek promotion and tenure/long-term contract in the next academic year. The subcommittee shall be constituted as follows:

a. The Chair will appoint two members of the subcommittee and designate one of them as subcommittee chair.

b. The Chair shall inform the candidate of the preceding appointments.

c. The candidate shall submit a list of no more than three other Committee members from which the Chair shall select the third member of the subcommittee.

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4. The subcommittee chair should meet with the candidate promptly in order to discuss the process and to assist the candidate in assembling his or her file/dossier in compliance with University and law school requirements.

5. The candidate's file/dossier shall be completed and submitted to the Chair no later than October 1. The Chair shall make the file/dossier available for review by Committee members. The subcommittee shall evaluate the file/dossier and recommend an area of excellence, or, in appropriate cases, recommend that the file/dossier be presented as a balanced case. No later than three days before the Committee's meeting to consider the application, the subcommittee shall provide each member of the Committee with a copy of the candidate's CV, personal statement, student evaluation summaries, peer evaluations, reviews of scholarship, and its recommendation with respect to the proper characterization of the file/dossier.

6. The Committee shall meet to consider the file/dossier during October or at such a time as to enable the file/dossier to be submitted to the University in a timely fashion. At the meeting in which the file/dossier is considered, the subcommittee chair shall briefly summarize the file/dossier and shall report the subcommittee's assessment of its strengths and weaknesses. Candidates may attend the Committee's meeting in order to provide additional information to the Committee and should, in any case, be available during the meeting should any question respecting the file arise during the Committee's discussion. In all cases, the candidate will be excused before the Committee engages in final discussion and voting. Following discussion and before a vote is taken, it is desirable for the Dean to inform the rest of the Committee of his or her intended action on the candidacy under consideration.

7. Promptly following the meeting, the Chair shall report orally to the candidate the results of the Committee's deliberations.

8. Promptly following the meeting, the subcommittee shall prepare a draft summary of the Committee's recommendation. The Chair shall circulate the draft for Committee comment.

9. It shall be the responsibility of the Associate Dean for Academic Affairs in cooperation with the candidate to prepare the file/dossier for final submission to the University.

B. Procedures for Promotion and the Award of Long-Term Contracts for Probationary Clinical Ranks Faculty

1. Except as herein provided, the procedures for promotion of clinical ranks faculty members shall be the same as those for tenure-track members.

2. After a probationary period of not more than seven years, a probationary clinical ranks faculty member shall be eligible for a renewable long-term contract of seven years. The procedures for obtaining a renewable long-term contract shall be the same as those governing the award of tenure, except that the law school as authority to award a long-term contract and the law school therefore makes a final decision, rather than a recommendation, regarding a long-term contract.

3. In awarding a long-term contract, the law school acts through the Committee and Dean, or solely through the Committee, as follows:

(a) If the candidate receives a vote in favor of awarding a long-term contract by two-thirds or more of all Committee members eligible to vote, the long-term contract shall be awarded.

(b) If the candidate receives a vote in favor of awarding a long-term contract by a simple majority of all Committee members eligible to vote, but less than two-thirds of all Committee members, the contract shall be awarded only upon approval of the Dean.

(c) If the candidate receives neither (1) a two-thirds favorable vote nor (2) a favorable majority vote and the Dean's approval, the candidate is awarded a one-year terminal contract.

(d) Committee voting shall be in person, by proxy, and through polling if necessary to ensure that all Committee members have an opportunity to vote.

4. Clinical ranks faculty who hold long-term contracts shall participate as full Committee members on applications by probationary clinical ranks faculty for appointment to long-term contracts, and on applications by clinical ranks faculty for promotion in rank. No clinical ranks faculty member, however, shall vote on an application for promotion to a rank which the member has not attained.

5. A probationary clinical ranks faculty member who has not received a notice of non-reappointment may request to be considered for a renewable long-term contract at any time after initial appointment. However, a probationary clinical rank faculty member who applies for an early award of a renewable long-term contract should be forewarned that only one full review of an application for a renewable long-term contract can be expected. A negative decision on an early application will not itself result in a terminal contract, but consideration of any subsequent request for a long-term contract or promotion will be in the Committee's discretion. If the Committee does not exercise its discretion to consider a subsequent request, the

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clinical faculty member shall be given a terminal contract for the last year of the probationary period.

[NOTE: It is the sense of the Committee that the above procedures conform as nearly as possible to the promotion and tenure process for tenure-track faculty. Thus, for example, it is anticipated that the decision to award a renewable long-term contract will be made during the probationary clinical ranks faculty member's sixth year.].

STANDARDS FOR PROMOTION, TENURE, LONG-TERM
CONTRACTS, AND RENEWAL OF A LONG-TERM CONTRACT

I. UNIVERSITY STANDARDS

The University's standards for promotion, tenure, and the achievement and renewal of a long-term contract are set forth in the INDIANA UNIVERSITY ACADEMIC HANDBOOK and any recent amendments thereto. Further information is contained in the IUPUI SUPPLEMENT to the handbook. As well, relevant information is contained in the Guidelines for the Preparation of Tenure and Promotion Dossiers prepared annually by the Dean of the Faculties at IUPUI. Candidates should refer to these documents for relevant criteria, standards, forms, and procedures.

Candidates who rely upon research as the primary criterion for promotion must demonstrate a national reputation as a "first class productive scholar" under University criteria. This demonstration is made in part through outside reviews of scholarly work. Reviews are solicited by the Associate Dean for Academic Affairs. Rather than waiting until a promotion or tenure decision is imminent before beginning the process of soliciting outside reviews, candidates should consult with the Associate Dean for Academic Affairs over the course of the probationary period and suggest names of possible reviewers. In no event should the process of soliciting outside reviews begin later than May 15 of the year in which a promotion or tenure decision will be sought. See Committee Responsibilities and Procedures VI, A, 2, *supra*.

II. LAW SCHOOL STANDARDS FOR PROMOTION, TENURE, AND LONG-TERM CONTRACT

A. GENERAL STANDARDS FOR TENURE-TRACK FACULTY

A recommendation for tenure shall be made only when the candidate has attained the rank of professor or shows substantial evidence that he or she will achieve promotion to the rank of professor in due time. A recommendation for promotion to the rank of associate professor shall be made only if the candidate shows promise of achieving tenure and promotion to the rank of professor. In evaluating applications for promotion or tenure, the Committee will be guided by the following considerations:

1. *Teaching*

Because it is among the primary tasks of a law school to prepare its graduates for entry into the legal profession, the importance of the teaching function cannot be overemphasized. The prime requisites of an effective teacher are intellectual competence, integrity, independence of thought, a spirit of constant inquiry, a vital interest in working with and teaching students, and an ability to impart enthusiasm and a spirit of intellectual integrity. The quality of teaching is admittedly difficult to measure, but it is the responsibility of each candidate to demonstrate a satisfactory level of teaching effectiveness. Such a demonstration shall include student evaluations and peer evaluations. Additional evidence may take any appropriate form including video tapes, faculty colloquia, statements of teaching goals and philosophy, copies of syllabi, exams and teaching materials, and descriptions of innovative teaching methods. In order to achieve a level of excellence in teaching, the evidence should show a degree of effectiveness as a teacher which distinguishes the candidate from the level of professional competence expected of all experienced teachers.

[NOTE: In discharging the burden of demonstrating teaching effectiveness, it is ordinarily expected that candidates will invite reviews of teaching by members of the Committee. To avoid unnecessary disruption and inappropriate intrusions, class visits should ordinarily occur only under circumstances and at times fixed by and agreeable to the candidate. Visitors should communicate promptly their impressions to the candidate and to the Committee in writing.]

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2. *Research and Creative Activity*

a. As adapted to the setting in the School of Law, the University statement on research and creative activities creates the expectation that a law teacher will make contributions to legal research and scholarship before being granted promotion or tenure. Ordinarily, these contributions are by way of significant publications of an original and creative nature, such as articles in recognized law reviews, book, or monographs. In some cases creative contributions may be recognized even though they do not result in traditional publications, but written work in some form is required as evidence of scholarly activity.

b. In addition, candidates who rely upon research as the primary criterion for promotion must submit evidence of a national scholarly reputation. This requires publication and outside review of publications or outside assessments of the candidate's overall scholarly record and stature. See Indiana University Faculty Handbook, Criteria for Promotion.

c. The research project to be evaluated will most likely fall into one of the following categories:

- (1) treatises;
- (2) books;
- (3) monographs
- (4) law review articles;
- (5) official or unofficial published explanations, comments or descriptions of statutes (for example, reports notes or comments to a uniform or model statute);
- (6) briefs and memoranda of law;
- (7) law related book reviews;
- (8) teaching materials commercially published, university published, or unbound distributed;
- (9) drafting of final statutory text in the capacity of primary drafter;
- (10) practice manuals;
- (11) bar review or Continuing Legal Education materials;
- (12) articles related to law written for publication in non-law review periodicals circulated primarily within the legal profession (e.g., ABA Journal, Res Gestae);
- (13) articles related to law written for publication in magazines circulated to the general public;
- (14) law-related speeches or testimony (texts, whether or not published).

d. The fact that a research product is one of the forms listed is, of course, no guarantee that the research product in fact satisfies qualitative and quantitative criteria, and the fact that the research product is not in one of the forms listed does not preclude the research product from satisfying qualitative and quantitative criteria.

e. The following factors may influence the judgment as to whether a candidate's research product, taken as a whole, is sufficient to demonstrate that the candidate has the capacity to product high-quality work evidencing rigorous analysis and that the candidate will continue to produce research products throughout his or her academic career:

- (1) the extent to which a research product is demonstrably a candidate's independent effort;
- (2) the quality of research product;
- (3) the quantity of a research product; and,
- (4) special difficulties inherent in the nature of the endeavor.

f. The quality, as opposed to the quantity of a candidate's work is the most important single factor in evaluating research products in connection with promotion or tenure decisions. This is made clear by the Indiana University policy statement. The following two lists provide indices that are suggestive of what should be considered in judging quality:

(1) Nature of the research product

The following attributes of research product are intended to be suggestive rather than flexible. However, it is doubtful that a faculty member would be awarded promotion or tenure on the basis of a research product falling only within category (i). Most credible research product will fall within categories (ii) – (vi), which are not distinguishable in terms of their significance or the weight which should be attached to them:

i. pure description—a clear explication of what a case, statute, regulation, or body literature says. This category includes both a summary simplifying a larger quantity of materials and a clarification of more complicated raw material;

ii. analytical description—in addition to what is covered by the preceding category, this category contemplates the identification of inconsistencies and the reconciliation of apparent inconsistencies;

iii. analysis—in addition to the preceding, this category includes commentary which adds insights of the author not coming directly out of the material; for example, the author might point out and explain why “non-statutory” review in administrative law is

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really statutory;

iv. critical analysis—this category identifies written work which the author develops a position through which she or he demonstrates the implications, justifications, or significance of the material under consideration;

v. original synthesis—this category refers to the bringing together of the materials under consideration in a “new way” by developing a new organizing principle or a new frame of reference;

vi. proposed solution—this category involves the presentation and defense of a solution to a problem through a proposed statute, regulation, or legal theory.

(2) Execution of research product.

The indicia listed below relate to that aspect of “quality” which deals with how well a candidate accomplished her or his task and how demanding that task was:

i. clarity of expression;

ii. thoroughness of analysis;

iii. scope and depth of subjects covered;

iv. difficulty or complexity of the subject matter;

v. originality of the study;

vi. actual or likely impact of the work.

g. During the year when a faculty member is an applicant for promotion or tenure the writings of the applicant should be reviewed by all members of the Promotion and Tenure Committee with an eye toward assessing their value by the above standards. It may be desirable to assign one or two members of the Promotion and Tenure Committee to make a specific, in depth, writings of the applicant and to report back to the Committee.

3. *Service*

It should be emphasized that a faculty member’s fundamental obligations include a satisfactory measure of service to the community, to the University, and to the law school. Two singular aspects of the law school setting have a particular bearing on the service obligation: 1) because law schools enjoy a unique degree of self-governance, law faculty have a somewhat greater burden of administrative responsibility than faculty members in most other disciplines and schools; and 2) as highly visible representatives of a service profession, law faculty will often find their knowledge and skills of particular usefulness to the various communities of which they are a part.

B. STANDARDS FOR PROMOTION AND AWARD OF LONG-TERM
CONTRACTS FOR CLINICAL RANKS FACULTY

Promotion in rank and the award of a renewable long-term contract to clinical ranks faculty are, except as is hereinafter indicated, governed by the same standards as those which govern promotion and tenure of tenure-track faculty. After the probationary period, a clinical ranks faculty member shall be awarded a renewable long-term contract for a seven year period upon a showing that the candidate has served and will continue to serve with distinction in his or her appointed role in light of the applicable standards.

The Promotion and Tenure Committee recognizes that there are some differences between the work of clinical ranks faculty and that typical of other faculty. It further recognizes that clinical ranks faculty are to be evaluated only with respect to teaching and service, not scholarship. Legal research leading to traditional publications such as textbooks, treatises, monographs, and law review articles are not required for an award of a long-term contract or promotion in the law school. However, candidates are urged to consult University guidelines that specify the type of publications that should be included in a dossier to justify the claimed area of excellence in teaching or service when seeking a promotion. The following principles and policies are provided for the information and guidance of clinical faculty members subject to Committee evaluation and for Committee members engaged in evaluation:

1. The principal that the burden of proof is on candidates subject to evaluation is equally applicable to tenure-track and probationary clinical ranks faculty. This burden includes producing evidence of performance in teaching and service. Because probationary clinical ranks faculty are evaluated on the basis of teaching and service only, it is particularly important that they produce evidence of excellence in one or both of these categories.

2. Although the following are not exclusive, they constitute both possible forms of evidence and the Committee's expectations regarding appropriate and desirable evidence of teaching and service performance.

- (a) Student Evaluation. Student teaching evaluations should address the individual performance of the faculty member through use of numerical ratings. The standard teaching evaluation form used by tenure-track faculty is the preferred instrument, but probationary faculty members may propose alternative instruments for Committee approval.

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(b) Peer Evaluation. The Committee recognizes that much clinical teaching occurs outside of a traditional class experience and that peer evaluation of such teaching by members of the Committee may present logistical and client confidentiality problems. Nevertheless, such evaluations are expected for each semester in the probationary period. Evaluations may take the form of interviews with clinical faculty members conducted by members of the Committee (at the invitation of the clinical faculty member). If a clinical ranks teaching assignment includes classroom components, the Committee expects that peer evaluations will be obtained for a representative sample of such components. Standard peer evaluations of teaching in traditional, non-clinical, courses and in the Lawyering Practice course should be conducted where clinical faculty teach such courses. Members of the Committee have the responsibility both to respond constructively to requests from clinical faculty for such visits and to promptly report in writing their evaluations.

(c) Presentations. Presentations to the Committee, to the faculty, or in programs outside the law school regarding teaching methods and other pedagogical issues are appropriate and desirable means of communicating information to the Committee about teaching performance and are a basis for Committee evaluation of such performance.

(d) Writing. Teaching materials, grant applications, manuals and other written or electronic products created by clinical faculty and employed in teaching are evidence of teaching performance and should be submitted in the evaluation process. So, too, are books and articles about teaching, about clinical methods, or about other matters relevant to teaching. To the extent that written materials are joint efforts, care should be taken to identify individual contributions.

(e) Outside Evaluations. As members of the legal profession and judges may be in a position to observe and evaluate the performance of both clinic students and the clinical faculty supervising such students, clinical faculty may solicit evaluations from such persons and submit them for consideration by the Committee. The Committee nevertheless recognizes that the adversary process may inhibit or preclude such evaluations.

(f) Service Activities. Clinical faculty should submit evidence of substantial service activities. This may include evidence of academic or conference presentations, presentations before bar and community groups, *pro bono* activities, and service to the law school.

(g) Intellectual Activity. Although University policy precludes evaluation of research as a distinct area of clinical activity, it should be recognized that this does not obviate the expectation that all faculty, including clinical ranks faculty, be engaged in significant intellectual activity related to teaching and service functions. Such activity may be demonstrated through evidence of teaching materials and innovations, research and writing concerning clinical education and closely-related fields (such as legal ethics, legal services, legal skills, substantive legal questions typically encountered in clinical experiences, and issues of legal education), legal briefs or memoranda prepared by the faculty member, participation in A.B.A., A.A.L.S., and university program and conferences, et cetera.

Reviews of work of this type should be included as evidence of clinical faculty performance. Such reviews may include both assessments by faculty members at this institution and reviews by members of other faculties.

3. Clinical ranks faculty, when subject to Committee evaluation, are required to provide the Committee with evidence of their activities during the annual review process as well as at those points in time when promotion and long-term contract awards are considered. Annual review reports should contain as complete a description of these activities as is necessary to fully inform the Committee.

*Under Committee Responsibilities and Procedures VI, *supra*.

In evaluating the candidate, the Committee should always bear in mind the different nature of the teaching responsibilities and service opportunities of clinical rank faculty. Written work and participation in professional conferences or programs, whether published or not or whether in the form of texts, articles, teaching materials, assessments of clinical teaching models and methods, or practice-related documents, will be considered as evidence of the clinical rank faculty member's performance.

C. PROCEDURES AND STANDARDS FOR RENEWAL OF LONG-TERM CONTRACTS

1. Long-term contracts shall be renewed unless good cause is shown for non-renewal in the form of professional incompetence, serious misconduct, financial exigency as defined by the University, or closure or permanent downsizing of the clinical or LARC program.

2. No later than March 1 of the penultimate year of a long-term contract, the Dean or the Chair of the Committee acting pursuant to

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a majority vote of the Committee shall notify the holder of the long-term contract when specific cause for non-renewal may exist. In order to provide a basis for making such a determination, no later than thirty days before March 1, the Dean or the Committee Chair may require the faculty member to provide a summary report of his or her performance relating to the putative ground(s) for non-renewal.

3. At the request of the clinical faculty member so notified, the Chair of the Committee shall set a time for review of the putative ground(s) for non-renewal. Before the meeting, the Dean, any Committee member, and the clinical faculty member may submit any materials pertinent to the question of non-renewal; and in appropriate cases the Chair may appoint a subcommittee of three members to consider and report on the materials submitted. The clinical faculty member shall be invited to discuss the reasons for non-renewal at the Committee meeting at which the review is made.

4. No later than April 15 of the year in which grounds for non-renewal have been brought to the notice of the Committee or at such other time as University or contractual provisions require, the Committee shall meet to consider the relevant facts and materials and shall make a final decision regarding renewal.

5. When notice of cause for non-renewal is not given by March 1 of the penultimate year of a long-term contract, the Committee shall be deemed to have approved renewal of the long-term contract.

UNIVERSITY POLICY ON CLINICAL RANKS

(updated from Indiana University Academic Handbook,
August 2001)

REGULATION OF CLINICAL AND LECTURER APPOINTMENTS

[EXPLANATION AND COMMENT: The regulation of lecturer and clinical appointments is intended to further the Trustees' policy regarding "associate faculty".

Associate faculty have played and will continue to play an important role in the teaching mission of Indiana University. For this reason, all campuses should establish formal policies treating the appointment, evaluation and professional development of such faculty.

Standards for appointment for associate faculty should guarantee that courses are taught by qualified individuals. Their teaching should be evaluated on a regular basis by customary measures of

classroom effectiveness. Reappointment of associate faculty should be predicated on satisfactory teaching evaluations.

Schools and departments should take steps to integrate associate with full-time faculty and to promote their professional development. Such steps should include formal orientation of associate faculty to the university and to their specific teaching responsibilities. Associate faculty should be provided with resources adequate to promote their success as teachers and the enhancement of their pedagogical skills. Exceptional performance by associate faculty should be recognized by appropriate measures. (Board of Trustees, September 24, 1994)]

CLINICAL FACULTY

Use of Clinical Appointments

Clinical appointments are appropriate for those who work primarily in the clinical setting. Clinical faculty may be involved in research that derives from their primary assignment in clinical teaching and professional service; however, continued appointment and advancement in rank must be based on performance in teaching and service.

[EXPLANATION AND COMMENT: Clinical appointees teach and practice full-time in the clinical professional setting. It follows that clinical appointments will be limited to academic units (and departments within academic units) in the professional-client service disciplines. Clinical faculty may contribute to the research efforts of a unit through their clinical work, but they are not expected to do individual research. Faculty who, in addition to teaching and service, have portions of their time allocated to doing research for which they are a principal or co principal investigator, who have research laboratories, or who are otherwise expected to do individual research should be in tenured/tenure-probationary positions. While individual faculty members hired in tenure-probationary appointments may switch to the clinical appointments during the first five years of their probationary period, such a switch must involve giving up the research component of their faculty work, except for their clinical role in collaborative research trials. Clinical appointments are not intended as a means of retaining tenure-probationary faculty members who will not be able to demonstrate the performance levels in teaching, research, and service required for the granting of tenure.]

Rights and Privileges

Clinical faculty are expected to follow and be protected by University

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policies, including those pertaining to faculty hiring and faculty annual reviews. The faculty salary policies of the University, campus, school, and department shall apply to clinical faculty. Clinical faculty have the right to petition the campus faculty board of review. Clinical faculty are not eligible for University sabbatical leave, but schools may provide sabbatical-like leaves for their clinical faculty to provide opportunities for professional learning and collaboration with colleagues.

Participation in University and campus faculty governance is governed by the Constitution of the Faculty of Indiana University and the faculty constitutions on each campus. The role of clinical faculty in governance within the unit shall be determined by vote of the tenured and tenure-probationary faculty of the unit, provided that where non-tenure track appointees have voting privileges, their voting participation must be structured in a way that reserves at least 60% of voting weight to tenure track faculty. The academic integrity of the school and its programs ultimately is the responsibility of tenured and tenure-probationary faculty.

The rights of clinical faculty and the regulations concerning their roles within each school shall be written and available to the school faculty. A copy of all rights and regulations shall be filed with the campus academic officer and with the campus faculty governance body.

[EXPLANATION AND COMMENT: The University Faculty Constitution defines the voting faculty as "all faculty members on tenure or accumulating credit toward tenure." The Constitution further states that "the voting members of individual campuses may extend voting privileges to others on matters of individual campus significance." The rationale for the distributions of rights and privileges is to leave the responsibility for the preservation of the most basic academic interests of the institution in the hands of those with the greatest protection of their academic freedom for the purpose of teaching, research, and service including the service of faculty governance, i.e. those with tenure. Non-tenure track appointees otherwise should have as many faculty privileges as is consistent with their qualifications and responsibilities.]

Clinical faculty are not eligible for academic administrative appointments at and above the department chair level.

[EXPLANATION AND COMMENT: The integrity of the academic programs will be best served by requiring that those individuals holding administrative appointments with direct authority for academic programs have the full range of academic

qualifications associated with the tenure track, as well as the fuller protection of academic freedom that tenure provides.

Appointment and Advancement

The faculty of each unit using clinical appointments shall decide whether those appointments will be with the titles of Clinical Professor, Associate Clinical Professor and Assistant Clinical Professor, or Clinical Senior Lecturer and Clinical Lecturer. Initial clinical appointments should be at the level appropriate to the experience and accomplishments of the individual. The process for appointment with probationary status or appointment with a long-term contract shall go through the ordinary procedures for faculty appointments. Promotion in rank of Assistant and Associate Clinical Professors should go through the normal faculty procedures appropriate to the unit of the university, including peer review by the primary unit, and campus promotion (and tenure) committees. The faculty of each unit using Assistant and Associate Clinical Professor appointments shall adopt criteria for promotion that are appropriate to the duties that may be assigned to clinical appointees. Those criteria must be written, available to unit faculty, and filed with the campus academic officer. Clinical Lecturers shall be promoted to Clinical Senior Lecturers upon their being appointed to long-term contracts following a probationary period.

Protection of Academic Freedom

Clinical appointees are not eligible for tenure; however, in order to protect their academic freedom, individuals appointed as clinical faculty shall be given long-term contracts after a probationary period of not more than seven years. The exact mechanism for this shall be determined by the dean and the faculty governance body within each school using clinical appointments and be approved by the chancellor, but the mechanism should be a long-term contract of not less than five years or be some equivalent, such as a rolling three year contract. The criteria for granting long-term contracts after a probationary period shall be analogous to the criteria for granting tenure, except that clinical faculty shall earn the right to a long-term contract on the basis of their excellence only those responsibilities that may be assigned to them. Each school will establish procedures and specific criteria for review of individuals concerning the renewal of long-term contracts or their equivalent.

Clinical faculty appointments during the probationary period shall be subject to the same policies and procedures with respect to

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appointment, reappointment, non-reappointment, and dismissal as apply to tenure-probationary faculty during the probationary period. After the probationary period, dismissal of a clinical faculty member holding a longer term contract which has not expired may occur because of closure or permanent downsizing of the program in which the faculty member teaches and serves; otherwise, dismissal of such clinical faculty shall occur only for reasons of professional incompetence, serious misconduct, or financial exigency. Non-reappointment of clinical faculty to a new contract term may occur for the foregoing reasons or may occur as well for reason of changing staffing needs of the clinical program. Non-reappointment decisions regarding clinical faculty holding a long-term contract after the probationary period must be made with faculty consultation through processes established by the school's faculty governance institutions. The jurisdiction of campus faculty grievance institutions includes cases of dismissal and non-reappointment of clinical faculty.

[EXPLANATION AND COMMENT: Probationary periods for part-time faculty may be longer than seven years, where regulations adopted by the faculty of the academic unit so provide. University practice requires that probationary periods be served on a continuing basis unless a leave of absence has been applied for and been granted. The University is not obliged to relocate within the institution clinical faculty whose positions are eliminated because of closure, permanent downsizing, or changing staffing needs of their clinical programs. Where an instructional line is converted from non-tenure to tenure track, a clinical faculty member occupying the line may apply for the tenure-track position, but is not guaranteed appointment.]

(University Faculty Council, February 13, 2001; Board of Trustees, May 14, 2001)

NO. 9

LOYOLA LAW SCHOOL—LOS ANGELES

Standards and Procedures for Hiring and Evaluating
Associate Clinical Professors in the Legal Research and
Writing and Ethical Lawyering Programs

A. STANDARDS FOR HIRING ASSOCIATE CLINICAL PROFESSORS

Associate Clinical Professors shall have a combination of at least five years experience in law practice that involves substantial legal research and writing skills, interviewing and counseling skills, and /or legal ethics and/or teaching in these areas. However, this standard should remain flexible enough to allow the Dean, Skills Committee, and the Legal Writing Director to exercise their discretion to select the best candidates.

B. RENEWABLE CONTRACTS

Associate Clinical Professors shall be offered contracts on the following terms without limit on the number of renewals.

1. Initial Contract

The initial contract for an Associate Clinical Professor will be a two-year renewable contract. The Dean, Legal Writing Director, and Skills Committee will hire Associate Clinical Professors. No faculty action is required to hire Associate Clinical Professors.

2. Renewal Contracts

The renewal contracts will be for a five-year term. The Legal Writing Director will recommend the renewal for approval by the Associate Dean and the Dean. No faculty action is required.

C. STANDARDS FOR CONTRACT RENEWAL

There is no presumption that the initial and first five-year contract held by an Associate Clinical Professor will be renewed. In the absence of action by the Legal Writing Director, the Committee, and the Dean, such a contract will not be renewed. Nonetheless, an Associate Clinical Professor's contract may be renewed, should renewal be in the best interests of the Law School.

The Committee, the Dean, and Legal Writing Director's recommendation and approval of a renewal contract will be based on

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a review of the Associate Clinical Professor's teaching and performance in Legal Research and Writing and Ethical Lawyering. A renewal contract may be granted to a person who has demonstrated excellence in teaching, considering the following criteria:

1. classroom teaching, including evaluation conducted by the Director and/or members of the Skills Committee.
2. providing detailed critique of students' written work in LRW and oral and written exercises in EL.
3. conduct of student conferences.
4. accessibility to students outside of regularly scheduled classes for individual conferences and instruction.
5. design and development of teaching materials, including legal writing problems and ethical lawyering exercises.
6. contribution to the LRW and EL programs, including cooperation with colleagues in planning and developing problems, classes, and teaching methodologies.
7. continued professional growth and development as an EL and LRW instructor.
8. contribution to and involvement in the life and mission of the law school
9. attending and participating in LRW and/or EL conferences or workshops.

While Associate Clinical Professors are expected to devote most of all their time to teaching responsibilities, they are also expected, as are other members of the faculty, to contribute their services to the Law School and the community. However, such service should not impair the Associate Clinical Professor's performance in LRW and EL. Examples of service include serving on Law School committees, assisting or advising student organizations and activities, and assisting in student writing projects.

Evaluation of teaching skills and service are the primary criteria for the award of a renewal contract. Scholarship is neither required nor expected for the award of a renewal contract. However, scholarship would be considered as part of criteria 7 or 8.

D. PROCEDURES FOR CONTRACT RENEWAL

1. Process of Evaluation

In evaluating an Associate Clinical Professor, the Director of the Legal Writing shall consider information gained through the following means:

- a. Observation of classes by the Director or other members

of the Skill Committee;

b. Review of writing and EL problems, written (or audio taped) critiques of student memos, handouts, samples, readings, and any other teaching tools,

c. Student evaluations of the Associate Clinical Professors;

d. Meeting with the Associate Clinical Professor.

2. Process of Contract Renewal

a. Renewal of Two-Year Contract: At the conclusion of the fall semester of an Associate Clinical Professor's initial two-year contract, the Director shall evaluate the Associate Clinical Professor's teaching performance using the standards and procedures set out in sections C and D(1) above. A recommendation to offer a five-year contract should be based on satisfactory progress toward and clear promise of eventual compliance with the teaching standard. The Skills Committee and Dean must approve the award of a renewal contract. The evaluation process should begin in the fall semester and be completed by mid-March. The renewal decision should be made by March 31. This should provide timely notification to the Associate Clinical Professor being evaluated as well as to the Skills Committee, which may be considering applicants for vacant positions.

b. First Renewal of a Five-Year Contract: By end of the fall semester of the fifth year of an Associate Clinical Professor's initial five- year contract, the Associate Clinical Professor's performance shall be evaluated in the manner set out in sections C and D(1) above. In deciding whether the Associate Clinical Professor shall be offered a second five-year contract the Director shall require that the Associate Clinical Professor demonstrate compliance with the teaching standard set out in section B above. If an offer of a second five-year contract is accepted, the Associate Clinical Professor shall be promoted to Clinical Professor.

c. Second and Subsequent Renewals of Five-Year Contracts: Second and subsequent renewals of five-year contracts shall be made by the Dean upon recommendation by the Director of Legal Writing. There need not be plenary review by the Skills Committee unless requested by the Director or by any Committee member. If review is requested, the Committee shall proceed with the evaluation and renewal process as set out in sections C and D (1) above.

SHEPARD BROAD LAW CENTER, NOVA SOUTHEASTERN UNIVERSITY

NOVA SOUTHEASTERN

**INITIAL CONTRACT, RETENTION, PROMOTION, AND TENURE:
FT FACULTY** (separate rules for Adjunct Faculty appear at the end
of this document)

The Law Center faculty consists of the following groups: tenured faculty members; tenure-track faculty members; contract faculty members; and continuing-contract faculty members. Tenured and tenure-track faculty members are collectively referred to as tenure-line; contract and continuing contract faculty are collectively referred to as contract-line.

Tenure-track faculty members are considered for retention, promotion, and tenure according to the applicable rules set forth below for tenure-track faculty. Contract faculty members are considered for retention, promotion, and continuing-contract status according to the applicable rules set forth below for contract faculty. Continuing-contract faculty members are considered for retention and promotion according to the applicable rules set forth below for continuing-contract faculty.

In addition, the Law Center faculty may also include visiting faculty. The title Distinguished Visiting Professor applies to individuals who have had distinguished careers elsewhere and are affiliating with the Law Center in a status other than tenure-track or contract; this status can be for a fixed term or for an indefinite period. The title Visiting Professor applies to individuals who are teaching at the Law Center for a period of up to two years. A Visiting Professor will hold the same rank he/she held at the school from which he/she is visiting; if the Visiting Professor has not previously taught at a law school, the rank of Visiting Assistant Professor will be awarded unless the faculty votes a higher rank by a 2/3 vote. A visiting position may be offered on a look-see basis.

If a Visiting Professor is awarded look-see status, that is to be determined by the faculty at the time the visiting offer is made. A visitor who is not initially accorded look-see status may apply for a contract or tenure-track position unless ineligibility to apply has been determined at the time the offer is made. Only a look-see visitor is entitled to review by the CRPT Committee during the visiting period.

TENURE-LINE FACULTY

A. INITIAL CONTRACT

1. The Appointments Committee shall make recommendations to the faculty with respect to candidates being considered for tenure-track and look-see visiting status. If a candidate has previous law school faculty service elsewhere, the committee may include in its recommendation to the faculty a grant of credit for such prior service.

2. The faculty may adopt the committee's recommendation with respect to hiring, credit, or both. No candidate shall be hired or given credit without an affirmative vote of 2/3 of the faculty present and voting on that issue.

3. The Contract Renewal, Promotion, and Tenure Committee shall make recommendations to the faculty with respect to look-see visitors being considered for tenure-track status. The Committee can include in its recommendation credit for service at the Law Center. No candidate shall be hired or given credit without an affirmative vote of 2/3 of the faculty present and voting on that issue.

B. RETENTION AND PROMOTION

1. Procedure. Evaluation of all tenure-track faculty members for purposes of contract renewal shall take place in their first, second, third, and fifth or sixth years at the Center unless their initial contract of appointment specifies otherwise. The level of review will reflect the years of credit, if any, granted by the faculty at the time of the offer if the faculty member being reviewed accepts the grant of credit.

2. Standards and Effect.a. First year review for renewal.

(1) Satisfactory teaching reflected by peer and student evaluations. Peer evaluation should be critical but supportive. The test is whether the faculty member is or can become a quality, effective teacher. Therefore, the critical aspect of the review is whether he/she is capable of achieving the high level of quality teaching we expect from all faculty members. Once the Committee determines the faculty member can achieve that level, the supportive aspect of the review includes making suggestions and helping the first year teacher to reach his/her potential.

(2) Regular participation in the governance of the Law Center through direct involvement in committee and faculty business.

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(3) A negative first year review includes a non-renewal recommendation.

b. Second year review for renewal.

(1) Critical review of teaching. The test is whether the faculty member is a quality teacher who demonstrates ability and interest in further development.

(2) Regular participation in the governance of the Law Center through direct involvement in committee and faculty business.

(3) A negative second year review includes a non-renewal recommendation.

c. Third year review for renewal and promotion. (Preliminary review Fall semester; decision to be made by March 31 of the professor's third year.)

(1) Critical review of teaching. In his/her third year, the faculty member must demonstrate continued growth as a teacher; the committee must be satisfied the teacher's progress indicates he/she will exhibit successful teaching during his/her future tenure review.

(2) Review of scholarship. In his/her third year, the faculty member must have demonstrated satisfactory progress in scholarship. Satisfactory progress should be defined to mean completion of at least one substantial piece of scholarship of the quality sufficient to indicate that tenure will be awarded, assuming the growth that usually follows a first piece. In other words, continued publications developing from this level should meet the tenure standard in the fifth year.

(3) Satisfactory review would include a recommendation to the Dean and Trustees that the faculty member be promoted to Associate Professor. This would mean the faculty member would not "apply" for promotion. A positive third year review automatically includes a positive recommendation on promotion, while a negative third year review includes a non-renewal recommendation and the award of a terminal contract for the fourth year.

d. Fifth or Sixth Year Review for Tenure. See Subsection D.

e. Director of the Law Library

(1) In General. The following provisions apply to the Director of the Law Library with respect to his or her teaching, scholarship, renewal as a faculty member with teaching privileges, promotion, and tenure as a faculty member. In addition, D.4 applies to the Director of the Law Library with respect to his or her tenure as a Law Librarian and tenure as a faculty member and promotion to Full Professor of Law.

(2) First and Second Year Review for Renewal as

Faculty Member with Teaching Privileges. The Director of the Law Library is subject to the provisions in B.1.b.i. with respect to the first year review for renewal as a faculty member with teaching privileges and B.1.b.ii. with respect to the second year review for renewal as a faculty member with teaching privileges.

(3) Third Year Review for Renewal as Faculty Member with Teaching Privileges. The Director of the Law Library is subject to the following third year review for renewal as a faculty member with teaching privileges:

Critical review of teaching. In his/her third year, the Director of the Law Library must demonstrate continued growth as a teacher; the committee must be satisfied the teacher's progress indicates he/she will exhibit successful teaching in the future.

(4) Promotion to Associate Professor. The Director of the Law Library may apply for promotion to Associate Professor as part of his or her third year review for renewal as a faculty member with teaching privileges or for any year thereafter. A director who wishes to apply for promotion must notify the committee in writing within the first forty-five (45) days of the fall semester of the year in which promotion is desired. The standard for promotion is a review of scholarship. The director must have demonstrated satisfactory progress in scholarship. Satisfactory progress should be defined to mean completion of at least one substantial piece of scholarship of the quality sufficient to indicate that tenure will be awarded if the director chooses to apply for tenure as a faculty member, assuming the growth that usually follows a first piece. In other words, continued publications developing from this level should meet the tenure standard for scholarship in D.3. For purposes of promotion, scholarship is defined in E.2 regarding the scholarly function, and includes the expanded definition of scholarship for the Director of the Law Library in E.2.f.

(5) Review for Tenure. The provisions of D.4.b apply to the tenure review of the Director of the Law Library as a faculty member.

C. LOOK-SEE VISITORS

The CRPT Committee shall review any look-see visitor seeking a Law Center position. The level of review will be determined by the amount of credit, if any, approved by the faculty at the initial appointment. If no prior credit was granted, the level of review will be the first year renewal standard.

D. TENURE

1. Purpose. It is the intention of this institution to pursue a policy of tenure that will attract the best of those individuals who, by their lifetime relationship, will be a credit to and bring honor upon the Law Center. It is recognized and expected that thereafter, in exchange for the job security inherent to the tenure contract, the faculty member will be unencumbered in making a total commitment to perfecting his/her professional stature by advancing the development of the law at a state or national level through teaching, scholarship and service. Although it may take years to achieve this stature, tenure is awarded to those individuals who have demonstrated the capability of making a sustained effort toward achieving this goal.

2. Procedure. Tenure shall be granted to an academic faculty member who, after a maximum of six years as a full-time tenure-track law school teacher has met the standards prescribed herein. Individuals eligible to apply for tenure shall be those who hold the rank of Associate or Full Professor of Law, regardless of their assigned duties (e.g., law librarian or administrator). Adjunct, lecturer, instructor, visiting, and long-term-contract teaching positions are not eligible for tenure.

A faculty member with more than three (3) years regular teaching service at one or more other law schools may, by contract provision at the time of his or her initial appointment, be given a probationary period of not more than four (4) years, even though thereby the person's total probationary period at all law schools is extended beyond the normal maximum of seven (7) years.

A faculty member with regular teaching experience at the Law Center in a contract-line position may, by contract provision at the time of his or her initial appointment, be given a probationary period that reflects prior service. That individual's probationary period shall not be less than two years nor more than the normal maximum of seven (7) years.

A tenure-track faculty member who is not awarded tenure in his/her sixth year of full-time tenure-track law teaching shall be notified by the Administration not later than May 30 of the sixth year of the termination of his/her employment at the Law Center as of the end of the seventh year. Tenure may be awarded prior to the sixth year at the Law Center upon application in the fifth year or when granted by initial contract. Tenure decisions should be made during the Fall semester.

3. Standards. A faculty member shall be granted tenure if he/she demonstrates successful teaching, scholarship and service that indicate it is in the Law Center's best interest to grant tenure. Successful teaching shall be shown by demonstration of continued progress and growth since the third year review. Successful scholarship means continual, regular production of quality publications, reflecting the predicted growth and development from the faculty member's first piece, indicating realization of his/her potential. Successful service means active participation in Law Center governance and involvement in local, state or national organizations in the areas of the faculty member's expertise and interests. A positive tenure vote would include a recommendation to the Dean and Trustees that the faculty member, if not already a Full Professor, be promoted to Full Professor.

4. Law Librarian. The Director of the Law Library is entitled to apply for tenure as a law librarian and as a faculty member. The tenure decision (law librarian or faculty) is based on the standards set forth below.

a. Tenure as a Law Librarian. Tenure shall be awarded to the Director who has demonstrated excellent professional performance in discharging law library responsibilities as set out in the Director's written job description. The Director of the Law Library may apply for tenure in the fifth year and must apply in the sixth year. A Director who is not awarded tenure in his/her sixth year of full-time service as Director of the Law Library shall be notified by the administration not later than May 30 of the sixth year of service as Director of the Law Library of the termination of his/her employment at the Law Center as of the end of the seventh year. Tenure may be awarded prior to the sixth year at the Law Center upon application in the fifth year or when granted by initial contract or according to the schedule specified in the original contract.

b. Tenure as a faculty member shall be based on the procedure described in D.2 with the following exceptions: The Director of the Law Library may apply for tenure as a faculty member at any time after being granted tenure as a law librarian if he or she holds the rank of Associate Professor or Full Professor of Law. The maximum of six years as a faculty member without an award of tenure is not applicable to the Director of the Law Library.

5. Clinician. The Director of an in-house clinic is entitled to apply for tenure as a clinician and as a faculty member. The tenure decision (clinician or faculty) is based on the standards set forth below.

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a. Tenure as In-House Clinician. Tenure shall be awarded to the Director of an in-house clinic who has demonstrated excellent professional performance in discharging in-house clinic responsibilities as set out in the Director of that clinic's written job description. The Director of an in-house clinic may apply for tenure in the fifth year and must apply in the sixth year. A Director who is not awarded tenure in his/her sixth year of full-time service as Director of an in-house clinic shall be notified by the administration not later than May 30 of the sixth year of service as Director of an in-house clinic of the termination of his/her employment at the Law Center as of the end of the seventh year. Tenure may be awarded prior to the sixth year at the Law Center upon application in the fifth year or when granted by initial contract or according to the schedule specified in the original contract.

b. Tenure as a faculty member shall be based on the procedure described in D.2 with the following exception: The Director of an in-house clinic may apply for tenure as a faculty member at any time after being granted tenure as a clinician. The maximum of six years as a faculty member without an award of tenure is not applicable to the Director.

E. DEFINITIONS

1. Teaching Function.

a. In General. Faculty members should aspire to excellence in teaching. Excellence in teaching includes the stimulation of critical thought, development and improvement of professional skills, and dissemination and inculcation of knowledge about the law and legal systems. The faculty recognizes and values many different teaching methodologies. Alone and in combination, these methodologies may satisfy our goal of excellence in teaching. While most courses will fall into one of the three categories delineated below, it is recognized that some courses will have elements of all three methods. The faculty recognizes that this is not a comprehensive list and welcomes and encourages the use of other innovative teaching methodologies.

(1) Traditional Law School Teaching. Courses that are taught primarily by traditional classroom pedagogical methods of "Socratic" dialogue, problem analysis, guided discussion, or lecture;

(2) Simulation Teaching. Courses that are taught primarily by students participating in mock skills development sessions, legal proceedings, and exercises that are observed and

critiqued by faculty. Some administrative functions may be inextricably linked to this teaching function;

(3) Clinical Teaching. Courses that are taught primarily to students being permitted to engage in the practice of law under the supervision of a faculty member or an approved external placement under the supervision of a practicing attorney. Such supervision involves counseling students and observation and critique of students' work. Such supervision is principally done by a one-on-one meeting with each student. Faculty members engaged in clinical teaching have substantial administrative functions inextricably linked to the teaching function;

(4) Academic Resources Teaching. Noncredit and credit courses that are designed to maximize a student's academic performance. Faculty members involved in Academic Resources programs perform substantial one-on-one counseling of students, including assignment, observation, and critique of student work. These faculty members also train, supervise, and critique student-employees' work in preparing and conducting study groups. Faculty members engaged in academic resources teaching have substantial administrative functions inextricably linked to the teaching function.

b. Other Teaching Functions. In addition to the above, the following shall be considered in the teaching function:

(1) Supervising students in supervised research projects;

(2) Consulting on Law Review/Law Journal publications;

(3) Advising moot court, mock trial, or interviewing, counseling and negotiation teams;

(4) Consultation with students;

(5) Development of teaching materials that are in a written, audiovisual, or computer format. When such material meets the criteria established for scholarship it shall be treated as such. When such material does not meet the scholarship criteria, but nevertheless is a valuable teaching tool, then it shall be considered in the teaching function.

c. Evaluation Process. The weighing process by which the quality of teaching is determined is not an exact science. Each faculty member when voting, whether as a member of a committee, as a member of the whole faculty on tenure matters, or as a member of the administration, is entitled to weigh the relevant factors according to his/her own beliefs in light of the goal of teaching excellence. This qualitative evaluation of teaching involves among others the

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following relevant factors: adequate preparation for class, regular and punctual attendance, and coverage of subject matter appropriate to the course. The following sources of information shall be considered in the evaluation process where applicable:

- (1) peer evaluation through observation;
- (2) individual interviews with faculty members;
- (3) review of student evaluations;
- (4) written comments by lawyers, judges and others who have had significant contact with the clinical or simulation activities (pedagogical or administrative);
- (5) written evaluation by the Dean or Clinic Director of the performance of the administrative function of anyone engaged in clinical teaching;
- (6) any other written comments or other relevant information.

d. In addition to (a)-(c) above, the teaching function for the Director of the Law Library may in part include the pedagogical duties of a law librarian. These include such activities as participation in a course in legal bibliography; formal and informal instruction in the use of library materials; individual instruction to students and faculty members in computerized legal research; and presentations at workshops and seminars.

2. Scholarly Function. Recognizing the inherent difficulty in qualitatively defining the desirable performance levels of the scholarly function, the faculty expects that such efforts will result in a product substantively superior to a student note or comment; that a cutting and pasting of quotations and excerpts is below acceptable levels; and that a summary of previous publications is not sufficiently creative to fulfill this function. It is in the spirit of the faculty's intent regarding scholarly efforts that one's professional scholarship should advance the educational base of current published legal knowledge. The following shall be considered:

- a. Authoring books (casebook, problems, collection, hornbook, history);
- b. Publishing articles in scholarly periodicals and periodicals focusing on the teaching function (legal, scientific, sociological, etc.);
- c. Publishing multiple articles in lawyers' bar journals;
- d. Publishing multiple book reviews in scholarly periodicals—the contents of such reviews being more than mere descriptions of contents; and
- e. Authoring significant briefs or legal memoranda or

identifiable portions thereof for adjudicatory tribunals or legislative bodies or committees thereof.

f. In addition to the above, the scholarly function for the Director of the Law Library may in part include development of library manuals and procedure guides; and publications in the area of law or libraries.

3. Professional Function. Involving qualitatively measurable product. Outlines or memoranda to one's file may be submitted by a candidate where performance of one's professional function has not resulted in a written product.

a. Professional activities. Local Bar Association Committees, State Bar Association Committees, American Bar Association Committees, A.A.L.S. Committees; Associations related to law librarianship, clinical teaching, academic support teaching, or legal writing;

b. Community service. Civic, charitable, and/or educational; religious; legal activities in the public interest; and

c. University service. Law Center Committees and Faculty meetings; Law Center functional development and promotion; University Committees and Senate/Forum.

CONTRACT-LINE FACULTY

A. INITIAL CONTRACT

1. The Appointments Committee shall make recommendations to the faculty with respect to candidates being considered for contract-track and look-see visiting status. If a candidate has previous law school faculty service elsewhere, the committee may include in its recommendation to the faculty a grant of credit for such prior service.

2. The faculty may adopt the committee's recommendation with respect to hiring, credit, or both. No candidate shall be hired or given credit without an affirmative vote of 2/3 of the faculty present and voting on that issue.

3. The Contract Renewal, Promotion, and Tenure Committee shall make recommendations to the faculty with respect to look-see visitors being considered for contract-track status. The Committee can include in its recommendation credit for service at the Law Center. No candidate shall be hired or given credit without an affirmative vote of 2/3 of the faculty present and voting on that issue.

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B. RETENTION AND PROMOTION

1. Procedure. Evaluation of all contract faculty members for purposes of contract renewal shall take place in their first, second, third, and fourth years at the Center unless their initial contract of appointment specifies otherwise. The level of review will reflect the years of credit, if any, granted by the faculty at the time of the offer if the faculty member being reviewed accepts the grant of credit. Evaluation for purposes of contract renewal of faculty who are on continuing contract shall take place in the fourth year of each five-year contract period. All reviews will be completed and reports submitted in time to meet University contract notice deadlines.

2. Standards and Effect.

a. First year review for renewal.

(1) Satisfactory teaching reflected by peer and student evaluations. Peer evaluation should be critical but supportive. The test is whether the faculty member is or can become a quality, effective teacher. Therefore, the critical aspect of the review is whether he/she is capable of achieving the high level of quality teaching we expect from all faculty members. Once the Committee determines the faculty member can achieve that level, the supportive aspect of the review includes making suggestions and helping the first year teacher to reach his/her potential.

(2) Regular participation in the governance of the Law Center through direct involvement in committee and faculty business.

(3) A negative first year review includes a non-renewal recommendation.

b. Second and third year review for renewal.

(1) Critical review of teaching. The test is whether the faculty member is a quality teacher who demonstrates ability and interest in further development.

(2) Regular participation in the governance of the Law Center through direct involvement in committee and faculty business.

(3) A negative second or third year review includes a non-renewal recommendation. A negative third year review includes the award of a terminal contract for the fourth year.

c. Fourth year review for renewal and promotion.

(Preliminary review Fall semester; decision to be made by March 31 of the professor's fourth year.)

(1) Critical review of teaching. In his/her fourth year, the faculty member must demonstrate continued growth as a teacher; the committee must be satisfied the teacher's progress indicates

he/she will exhibit successful teaching during his/her future reviews and is committed to further growth as a teacher.

(2) Review of scholarship. In his/her fourth year, the faculty member must have demonstrated satisfactory progress in scholarship as that term is defined in the Section E.2.

(3) Satisfactory review would include a recommendation to the faculty (for approval by a majority vote), Dean, and University administration that the faculty member be promoted to Associate Professor. This would mean the faculty member would not “apply” for promotion. A positive fourth year review automatically includes a positive recommendation on promotion and award of a continuing contract, while a negative review includes a non-renewal recommendation and award of a terminal contract for the fifth year.

d. Subsequent Reviews and Promotion to Full Professor. (Preliminary review Fall semester; decision to be made by March 31 of the professor’s fourth year in each five-year contract cycle.)

(1) A continuing-contract faculty member who continues to meet the standards for fourth-year renewal set forth above, which include additional scholarship during the period since his/her last review, shall be recommended for another five year contract term. A negative review includes a non-renewal recommendation and award of a terminal contract for the fifth year of the current five-year contract period. There is no limit to the number of five year [sic] terms for which a faculty member can be recommended.

(2) A continuing-contract faculty member who requests a promotion review and who has a record of distinguished scholarship, outstanding teaching, and professional service shall be recommended for promotion to Full Professor in addition to being recommended for another five year contract term. A faculty member who meets the standards set forth in (1) can be recommended for an additional five year [sic] term as an Associate Professor even though he/she is not recommended for promotion.

e. Promotion at Times Other than Contract Renewal. A faculty member who holds continuing-contract status may request promotion before the normal review for another continuing-contract period.

f. Subsequent Reviews of Full Professors Who Have Continuing Contract Status. (Documentation review Fall semester, decision to be made by January 21st of the professor’s fourth year in each five-year contract cycle).

(1) Full Professors who have undergone either (a) two positive Continuing Contract reviews or (b) one positive Continuing

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Contract Review and a separate positive review for promotion to Full Professor will be reviewed by the Contract Renewal, Promotion and Tenure Committee and by the Dean according to the standards set forth in (2) and the procedures set forth in (3). A positive review includes a recommendation to the University for award of another five-year continuing contract:

(2) Performance Standards for Positive Recommendation:

Teaching: Demonstrated competence in teaching the classes assigned by the dean.

Scholarship: Has completed and submitted for publication at least one piece of legal writing as defined in the promotion, retention and tenure standards in the Faculty Code.

Professional Service: Served on assigned Law Center committee and has engaged in one other University committee or other professional service effort.

(3) Procedures Used in Review:

The CRPT Committee shall review documentation contained in the faculty member's Annual Reports covering the period since his/her last contract renewal and any other documentation the faculty member wishes to submit.

A faculty member's Annual Reports submitted to and accepted by the Dean showing satisfactory performance of the standards set forth in subsection (2) above establishes a presumption that the faculty member has met the standard for renewal. However, progress toward completion of scholarship, while satisfying an annual review standard, cannot substitute for actual completion and submission for publication by end of the review period.

Before making a negative recommendation the Committee must (a) first notify the faculty member and provide him/her the opportunity to challenge the Committee's initial determination and provide additional documentation (b) then reconsider the proposed decision based on this additional information.

C. LOOK-SEE VISITORS

The CRPT Committee shall review any look-see visitor seeking a Law Center position. The level of review will be determined by the amount of credit, if any, approved by the faculty at the initial appointment. If no prior credit was granted, the level of review will be the first year renewal standard.

D. DEFINITIONS

1. Teaching Function.

a. In General. Faculty members should aspire to excellence in teaching. Excellence in teaching includes the stimulation of critical thought, development and improvement of professional skills, and dissemination and inculcation of knowledge about the law and legal systems. The faculty recognizes and values many different teaching methodologies. Alone and in combination, these methodologies may satisfy your goal of excellence in teaching. While most courses will fall into one of the three categories delineated below, it is recognized that some courses will have elements of all three methods. The faculty recognizes that this is not a comprehensive list and welcomes and encourages the use of other innovative teaching methodologies.

(1) Traditional Law School Teaching. Courses that are taught primarily by traditional classroom pedagogical methods of “Socratic” dialogue, problem analysis, guided discussion, or lecture;

(2) Simulation Teaching. Courses that are taught primarily by students participating in mock skills development sessions, legal proceedings, and exercises that are observed and critiqued by faculty. Some administrative functions may be inextricably linked to this teaching function;

(3) Clinical Teaching. Courses that are taught primarily to students being permitted to engage in the practice of law under the supervision of a faculty member or an approved external placement under the supervision of a practicing attorney. Such supervision involves counseling students and observation and critique of students’ work. Such supervision is principally done by a one-on-one meeting with each student. Faculty members engaged in clinical teaching have substantial administrative functions inextricably linked to the teaching function;

(4) Academic Resources Teaching. Noncredit and credit courses that are designed to maximize a student’s academic performance. Faculty members involved in Academic Resources programs perform substantial one-on-one counseling of students, including assignment, observation, and critique of student work. These faculty members also train, supervise, and critique student-employees’ work in preparing and conducting study groups. Faculty members engaged in academic resources teaching have substantial administrative functions inextricably linked to the teaching function.

b. Other Teaching Functions. In addition to the above, the

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following shall be considered in the teaching function:

- (1) Supervising students in supervised research projects;
- (2) Consulting on Law Review/Law Journal publications;
- (3) Advising moot court, mock trial, or interviewing, counseling and negotiation teams;
- (4) Consultation with students;
- (5) Development of teaching materials that are in a written, audiovisual, or computer format. When such material meets the criteria established for scholarship it shall be treated as such. When such material does not meet the scholarship criteria, but nevertheless is a valuable teaching tool, then it shall be considered in the teaching function.

c. Evaluation Process. The weighing process by which the quality of teaching is determined is not an exact science. Each faculty member when voting, whether as a member of a committee, as a member of the whole faculty on tenure matters, or as a member of the administration, is entitled to weigh the relevant factors according to his/her own beliefs in light of the goal of teaching excellence. This qualitative evaluation of teaching involves among others the following relevant factors: adequate preparation for class, regular and punctual attendance, and coverage of subject matter appropriate to the course. The following sources of information shall be considered in the evaluation process where applicable:

- (1) peer evaluation through observation;
- (2) individual interviews with faculty members;
- (3) review of student evaluations;
- (4) written comments by lawyers, judges and others who have had significant contact with the clinical or simulation activities (pedagogical or administrative);
- (5) written evaluation by the Dean or Clinic Director of the performance of the administrative function of anyone engaged in clinical teaching;
- (6) any other written comments or other relevant information.

d. In addition to (a)-(c) above, the teaching function for the Director of the Law Library may in part include the pedagogical duties of a law librarian. These include such activities as participation in a course in legal bibliography; formal and informal instruction in the use of library materials; individual instruction to students and faculty members in computerized legal research; and

presentations at workshops and seminars.

2. Scholarly Function. Recognizing the inherent difficulty in qualitatively defining the desirable performance levels of the scholarly function, the faculty expects that such efforts will result in a product substantively superior to a student note or comment; that a cutting and pasting of quotations and excerpts is below acceptable levels; and that a summary of previous publications is not sufficiently creative to fulfill this function. It is in the spirit of the faculty's intent regarding scholarly efforts that one's professional scholarship should advance the educational base of current published legal knowledge. The following shall be considered:

- a. Authoring books (casebook, problems, collection, hornbook, history);
- b. Publishing articles in scholarly periodicals and periodicals focusing on the teaching function (legal, scientific, sociological, etc.);
- c. Publishing multiple articles in lawyers' bar journals;
- d. Publishing multiple book reviews in scholarly periodicals—the contents of such reviews being more than mere descriptions of contents; and
- e. Authoring significant briefs or legal memoranda or identifiable portions thereof for adjudicatory tribunals or legislative bodies or committees thereof.
- f. Development of library manuals and procedure guides; and publications in the area of law or libraries.
- g. Scholarly writing submitted for review by one's peers; presentations at professional meetings and seminars; service as a referee or reviewer for professional journals and/or publishers; invited lectures and performances; and successful efforts in obtaining extramural support, including the receipt of grants or fellowships.

3. Professional Function. Involving qualitatively measurable product. Outlines or memoranda to one's file may be submitted by a candidate where performance of one's professional function has not resulted in a written product.

- a. Professional activities. Local Bar Association Committees, State Bar Association Committees, American Bar Association Committees, A.A.L.S. Committees; Associations related to law librarianship, clinical teaching, academic support teaching, or legal writing;
- b. Community service. Civic, charitable, and/or educational; religious; legal activities in the public interest; and

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c. University service. Law Center Committees and Faculty meetings; Law Center functional development and promotion; University Committees and Senate/Forum.

REVIEW OF ADJUNCT FACULTY

The Faculty Appointments Committee will conduct the review of non-clinical adjunct faculty members. Clinical supervisors will review adjuncts teaching in the clinics. Adjunct faculty members will be evaluated on classroom teaching in each of their first three semesters of teaching at the Law Center and no less often than every four years thereafter.

Adjunct faculty members assisting in the clinics will be reviewed on a regular basis.

In addition to observation by full-time faculty members, the review process for adjunct faculty will include review of student evaluations and other student comments. Adjunct faculty members will not be evaluated on scholarship or professional service activities. Because courses may be offered less frequently than annually, adjunct faculty members will not necessarily teach every year.

No. 11

UNIVERSITY OF OREGON SCHOOL OF LAW

Standards and Procedures for Hiring and Retention
of Legal Research and Writing Instructors

- I. HIRING, RETENTION, AND PROMOTION OF LRW INSTRUCTORS
- II. STANDARDS FOR HIRING AND EVALUATION
- III. PROCEDURES FOR EVALUATION OF INSTRUCTORS AND SENIOR INSTRUCTORS
- IV. SENIOR INSTRUCTOR STATUS
- V. EFFECTIVE DATE AND TRANSITION RULES

I. HIRING, RETENTION, AND PROMOTION OF LRW INSTRUCTORS

A. LRW faculty with the rank of instructor will be hired on one-year contracts, with the expectation of renewal, according to the standards outlined in Section IIA. The school's goal is to hire persons who will stay for multiple years.

B. During the first two years, an instructor will be recommended for contract renewal for a one-year term if the instructor has satisfied the teaching criteria and programmatic citizenship standards outlined in Section IIB (subsections 1 and 2a) and is making progress towards satisfying all the criteria outlined in Section IIB. In subsequent years, an instructor will increasingly be evaluated on all the criteria outlined in Section IIB both for purposes of annual renewal and for determining whether the instructor is on track to achieve senior instructor status. The faculty expects that those instructors who are interested in continuing with the LRW program will desire senior instructor status. The process for evaluation and renewal of one-year contracts for instructors is outlined in Section III.

C. An instructor who receives senior instructor status will receive two-year contracts (or longer contracts if allowed by the University in the future). For promotion to senior instructor status, an instructor is expected to excel in all three criteria outlined in Section IIB: teaching, service, and professional development. In rare instances, demonstrably outstanding performance in one area may justify promotion if there is sufficiently strong performance in the other two. The process for promotion to senior instructor is outlined

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in Section III.

II. STANDARDS FOR HIRING AND EVALUATION

A. STANDARDS FOR HIRING NEW LRW FACULTY TO THE RANK OF
INSTRUCTOR

1. A strong record of academic achievement
 2. Excellent skills in legal writing and oral communication
 3. A J.D. or its equivalent
 4. At least two years of post-law school legal experience
 5. Demonstrated potential for excellence in teaching
 6. Personal characteristics that indicate a high likelihood of success in a collegial environment
 7. Commitment to teaching LRW
- LRW instructors will be hired following a national search except in unusual circumstances.

B. STANDARDS FOR EVALUATING LRW FACULTY WITH THE RANK OF
INSTRUCTOR

1. Excellence in teaching, as demonstrated by all of the following:
 - a. Leading well organized classes that effectively present course material in ways that challenge students to excel in a supportive learning environment.
 - b. Holding effective writing conferences with individual students.
 - c. Designing challenging but appropriate course material, drawing from school and national sources.
 - d. Keeping the course updated, based on awareness of trends in the field.
 - e. Evaluating papers consistently with course goals, while providing meaningful feedback to further student progress.
 - f. Being accessible to and relating well with students.
 - g. Administering the course (e.g., meeting deadlines; coordinating with librarians, faculty, and the administration).
2. Service, as demonstrated by all of the following:
 - a. Proving good programmatic citizenship (e.g., team work, compliance with policies of the school and the program, and an appropriate balance between individual initiative and acceptance of direction).

b. Contributing to the effective administration of the LRW program (e.g., coordinating course-wide events like oral arguments and the Supreme Court visit, assuming more program-wide responsibility for tutor training).

c. Contributing to the law school (e.g., participating in faculty governance, serving actively on committees, attending colloquia, presenting TEFFS sessions) and the broader community (e.g., leading CLE sessions, serving on University committees, being active with Inns of Court or bar associations).

3. Professional development activities that keep the instructor current and engaged in the field of LRW and in teaching. The following activities are expected to enhance professional development, though the list is not exhaustive and other activities may be equally valuable. An instructor is not required to perform every activity listed.

a. Contributing to the legal writing field through regional or national organizations.

b. Making presentations or leading workshops at conferences; teaching abroad.

c. Attending professional conferences, workshops, symposia, or meetings.

d. Designing and teaching additional courses.

e. Publishing on matters relating to LRW, especially in journals and bulletins targeted to other LRW faculty. Publishing in other academic areas may also be considered positively.

III. PROCEDURES FOR EVALUATION OF INSTRUCTORS AND SENIOR INSTRUCTORS

A. EVALUATION OF INSTRUCTORS

1. During each year of appointment, the LRW director will evaluate each instructor through the following:

a. Reading the instructor's CV and statement of goals and accomplishments.

b. Reviewing student evaluations and the portions of LRW program evaluations that relate to that instructor.

c. Observing one or more classes.

d. Reviewing a portfolio containing representative assignments, marked papers, class exercises, syllabi, etc.

e. Meeting with the instructor.

f. In the third and fifth years of an instructor's

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appointment, reviewing a brief report by a member of the personnel committee (or a tenured or senior instructor member of the faculty designated by the committee) that will be prepared and given to the LRW director and instructor after observing the instructor lead a class.

2. The director will write a report to the personnel committee (1) summarizing the director's evaluation and (2) recommending whether the instructor should be offered another contract based on the criteria in Section IIB. A copy will be provided to the instructor, who may provide a written response based on the criteria in Section IIB.

3. The timing of the reports and evaluation will be as follows:

a. The instructor's statement of goals and accomplishments is due to the director no later than December 15.

b. By January 15, the LRW director will send a letter report to the personnel committee, recommending whether the instructor should be offered another contract. That report will be accompanied by the instructor's statement of goals and accomplishments, the instructor's student evaluations, and (in the third and fifth years) the personnel committee member's class evaluation.

c. By January 30, the personnel committee will forward to the dean the LRW director's recommendation. If the personnel committee rejects the LRW director's recommendation, it will write a report explaining its reasons. This report will be given to the director and the instructor, who will have an opportunity to write responses before the dean makes a final decision.

d. By February 15, the dean will decide whether to offer the instructor another contract.

B. PROMOTION TO SENIOR INSTRUCTOR

1. The law school encourages LRW instructors with a continuing professional commitment to teaching LRW as a career to apply for promotion to senior instructor. To begin the promotion process, an instructor in at least the sixth year of teaching LRW must present to the director by September 15 a dossier including a CV, a statement of the instructor's goals and accomplishments that demonstrates that the standards in Section IIB have been met, and other information the instructor deems relevant.

2. The LRW director will review the dossier and write a recommendation to the personnel committee. Within the law school, consideration of promotion cases will rely heavily on the recommendation of the LRW director.

3. After receiving the instructor's dossier and the LRW director's recommendation, the personnel committee will prepare a recommendation to the faculty. In preparing its recommendation, the personnel committee will:

- a. Read the director's recommendation regarding the promotion.
- b. Read the instructor's CV and promotion statement.
- c. Review representative samples of the instructor's student evaluations.
- d. Appoint a committee member to observe the instructor teaching.
- e. Write a recommendation regarding the committee's assessment of whether the instructor has satisfied the standards outlined in Section IIB and therefore should be promoted to senior instructor status. Copies will be provided to the director and the instructor before the recommendation is given to the faculty, and they will have an opportunity to write responses based on the standards of Section IIB that will be circulated to the faculty with the report.

4. The faculty will vote on whether a candidate should be promoted to senior instructor, applying the standards outlined in Section IIB. Voting will take place by secret ballot. For purposes of this vote, the "faculty" includes senior instructors as well as tenured and tenure-track faculty members.

5. Following the faculty vote, the dean will provide his or her assessment of the case and forward a recommendation to the provost.

C. EVALUATION OF SENIOR INSTRUCTORS

1. The LRW director will conduct biennial reviews of senior instructors. The director will forward to the personnel committee by January 15 a report on the senior instructor's performance with a recommendation on whether another contract renewal should be offered. The personnel committee will vote to accept or reject the LRW director's recommendation, and notify the dean of that decision by January 30. If the personnel committee rejects the LRW director's decision, it will write a report outlining its reasons. This report will be given to the director and the instructor, who will have an opportunity to comment before the dean makes a final decision. The dean will decide whether to renew a senior instructor by February 15.

2. Every six years, the personnel committee will conduct reviews to ensure that the senior instructor continues to meet the criteria in Section IIB regarding teaching, service, and professional

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development. If so, the senior instructor will receive benefits commensurate with a positive post-tenure review.

IV. SENIOR INSTRUCTOR STATUS

A. Senior instructors receive two-year contracts (or longer contracts if allowed by the University in the future).

B. Upon elevation to senior instructor status, an LRW faculty member is expected to receive a pay increase reasonably sufficient to retain qualified LRW faculty, as required by ABA standards.

C. Senior instructors are eligible for sabbatical immediately upon promotion and subsequently after six or more full-time years of service.

a. During sabbaticals, senior instructors should pursue professional development activities to reinvigorate and restore their academic energies, particularly relating to their teaching of LRW. Potential sabbatical activities include teaching abroad, visiting LRW programs (either at one school or a series of schools), observing and contributing to the work of the bench and bar as a teacher in residence, attending conferences, and researching and publishing in related areas. This list is not exhaustive.

b. It is expected that no more than one LRW senior instructor will be on sabbatical at one time.

c. If an LRW senior instructor would otherwise begin a sabbatical in the second year of a two-year contract, the school may ask the instructor to sign a new two-year contract to ensure that the instructor will bring back to the school the benefits of the sabbatical.

d. Other terms of sabbatical are to be consistent with relevant Oregon Administrative Rules.

V. EFFECTIVE DATE AND TRANSITION RULES

A. These standards and procedures will be effective for incumbent and prospective instructors immediately upon adoption by the faculty and approval by the Vice President for Academic Affairs.

B. An incumbent instructor beyond the third year of employment when these standards are adopted may be considered for promotion in the sixth year or may wait up to two additional years. Such an instructor will not have an external third-year review (see IIIA) but should be reviewed by the personnel committee in the fifth and, if relevant, seventh years.

NO. 12

ST. JOHN'S UNIVERSITY SCHOOL OF LAW

(As adopted by the Faculty Council on May 4, 2005)

St. John's University
School of Law

II. STANDARDS GOVERNING REAPPOINTMENT AND PROMOTION OF MEMBERS OF THE LEGAL WRITING FACULTY

Members of the Legal Writing faculty are full-time, non-tenure track members of the Law School faculty, appointed, reappointed, and promoted pursuant to Articles VI and VII of the Law School's Faculty Council Bylaws.

In addition to possessing such fundamental attributes and qualities as good character, integrity, and cooperativeness, candidates for reappointment and/or promotion as members of the Legal Writing faculty must meet the following standards and criteria:

A. TEACHING

Teaching performance is the primary consideration in evaluating members of the Legal Writing faculty.

1. Definition and Characteristics

(a) Teaching is broadly defined to include the following characteristics:

- (1) Ability to communicate;
- (2) Preparation for class;
- (3) Breadth and depth of knowledge relevant to the field of legal research and writing;
- (4) Thoughtful organization of individual class sessions and the overall course content;
- (5) Ability to stimulate student interest and effort;
- (6) Ability to effectively direct a classroom meeting;
- (7) Accessibility to students and demonstrated interest and involvement in their education;
- (8) Ability to provide insightful, detailed critiques of students' written work and to stimulate and develop students' critical, analytical and synthesizing skills; and
- (9) Ability to produce and select materials for Legal Research and Writing problems and exercises and to assist other

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members of the Legal Writing faculty in planning and developing such materials and teaching methods.

2. Methods of Evaluation

(a) Peer Evaluations

(1) For Assistant Professors of Legal Writing on a one-year contract: One class each semester should be visited by at least one faculty member. For Assistant and Associate Professors of Legal Writing on a three-year contract: One class each academic year should be visited by at least one faculty member. The visiting faculty member should prepare a written evaluation of the class and provide a copy to the faculty member being visited.

(2) For Professors of Legal Writing: Classes should be visited on a periodic basis.

(b) Student Evaluations. Written evaluations of faculty performance should be made by students once in each course.

(c) Review of teaching materials.

(d) Any other relevant method for assessing teaching characteristics.

B. SCHOLARSHIP AND SCHOLARLY ACTIVITIES

1. Minimum Scholarship Requirements for Personnel Action

(a) Reappointment to Assistant Professor of Legal Writing and Promotion to Associate Professor of Legal Writing

Original and published writings are not expected of Assistant and Associate Professors of Legal Writing. If such activities are undertaken, they shall be evaluated and, if of high quality, will be given substantial weight in renewal and promotion decisions.

(b) Promotion to Professor of Legal Writing

(1) Any member of the Legal Writing faculty seeking promotion to the rank of Professor shall have produced Scholarship that is the product of thoughtful, reflective and analytical labor which is disseminated to a significant audience and recognized for its quality. Promotion to the rank of Professor of Legal Writing shall not be granted unless at minimum, the candidate has published a book (which may be a book for practicing attorneys) or two publications consisting of chapters in books which are attributed to the candidate, articles in law reviews or in refereed journals or articles of a similar nature in other publications, or any combination thereof.

(2) For purposes of paragraph (b)(1) above, in the case of a faculty member promoted to the rank of Associate Professor of Legal Writing, publications submitted in connection with such

promotion shall also be utilized to satisfy the minimum Scholarship requirement for promotion to the rank of Professor of Legal Writing. For example, a book published prior to promotion to Associate Professor of Legal Writing would satisfy the minimum publication threshold for promotion. It is anticipated however, that a favorable promotion decision would be forthcoming only if the candidate had also demonstrated a continued commitment to Scholarship subsequent to promotion to Associate Professor of Legal Writing.

(c) Threshold Requirements. The Scholarship standards set forth in paragraph (b) above represent the minimum requirements for consideration for the desired personnel action. Accordingly, satisfaction of these minimum requirements shall not be deemed to ensure a favorable personnel decision.

(d) For candidates for promotion to Professor of Legal Writing, the Personnel Committee may, in its discretion, determine that the scholarship of a candidate shall be subject to external review. Any such external review shall be conducted in accordance with the following procedures:

(1) The candidate shall select the publication that shall be subject to external review.

(2) The Personnel Committee shall submit the publication for external evaluation to three evaluators from outside the St. John's Law School faculty. Whenever feasible, these evaluators should be law school faculty members who currently teach or write in the area of the submitted publication. When the Personnel Committee is unable to find three such evaluators, it should select persons who it believes are current in the legal literature in the field and who have previously taught in the subject area at a law school or who have written in scholarly journals in the subject area.

(3) The candidate may submit a list of at least four names from which the Personnel Committee must choose at least one of the evaluators. In addition to the names, the candidate should provide a brief description of the qualifications of the proposed evaluator, the candidate's relationship, if any, with the evaluator and the evaluator's involvement, if any, with the drafts of the publication.

(4) The Personnel Committee shall provide the candidate with the names of all proposed evaluators and should respect, if possible, any reasonable objections raised by the candidate to any proposed evaluator.

(5) The Personnel Committee shall ask each of the evaluators to submit a report in writing and shall inform the

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evaluator that the report will be made available to the candidate and to the tenured faculty.

(6) A publication which has been evaluated under this procedure as part of a prior application for promotion shall not be evaluated again, and such prior evaluations shall be submitted to the faculty as part of the current application.

C. SERVICE TO THE LAW SCHOOL

The nature of the legal research and writing program demands that members of the Legal Writing faculty devote a substantial amount of their time to teaching responsibilities. However, within the time constraints of the position, they should endeavor to serve the Law School, the University, the profession, and the public by (a) service to the Law School and the University on committees and otherwise; (b) service to the legal profession through professional organizations, bar association committees, and continuing legal education; and (c) service to the public through legislative drafting and advocacy, work for public advisory commissions and volunteer work.

D. COLLEGIALITY

Members of the Legal Writing faculty should treat colleagues, staff members and students with civility and respect. They should make themselves reasonably available to colleagues for purposes of discussing teaching methods, content of courses, possible topics of scholarship, scholarly work-in-progress and related matters.

No. 13

SOUTHERN ILLINOIS UNIVERSITY SCHOOL OF LAW

CLINICAL FACULTY
LAWYERING SKILLS HIRING, PROMOTION
AND CONTRACT RENEWAL DOCUMENT
Approved 12/14/99

I. INTRODUCTION

A. PREAMBLE

These rules describe the process within the Southern Illinois University School of Law for hiring Lawyering Skills faculty and for evaluating Lawyering Skills faculty for promotion and contract renewal. These rules were adopted in order to comply with ABA Accreditation Standard 405 (c) which states in part:

A law school shall afford to full-time clinical faculty members a form of security of position reasonably similar to tenure, and non-compensatory perquisites reasonably similar to those provided other full-time faculty members. A law school may require these faculty members to meet standards and obligations reasonably similar to those required of other full-time faculty members. . . .

These rules describe non-tenure eligible clinical appointments, and these rules supplant, for clinical faculty, the rules on tenure and promotion in rank contained in the SIUC Faculty Handbook.

B. SCOPE

These rules apply to members of the Lawyering Skills faculty with the rank of clinical professor, clinical associate professor, or clinical assistant professor. They do not apply to the Lawyering Skills Director, who is a member of the Law School faculty.

C. PROMOTION PATH

1. The Law School ordinarily will hire Lawyering Skills faculty

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at the clinical assistant professor rank and give them a one-year term appointment.³ The Law School may renew this term appointment one year at a time for up to four additional one-year contracts. The term “contract year” refers to the nine-month period covered by the term appointment. This period will differ from the “fiscal year” if the term appointment begins on a date other than July 1st.

2. In the fifth contract year, and not earlier, a clinical assistant professor shall apply for promotion to clinical associate professor. If the Law School grants the promotion, it will become effective at the beginning of the next fiscal year. If the Law School denies the promotion, the Dean shall promptly notify the person that the term appointment will not be renewed.

3. The Law School will give a person promoted to clinical associate professor a continuing appointment subject to a fifth-year review.⁴ In the fifth year of a continuing appointment, and not earlier, a clinical associate professor shall apply for renewal of the continuing appointment. If the Law School grants the application for renewal, the new continuing appointment will begin at the beginning of the next fiscal year. There is no limit to the number of times that the Law School may renew a clinical associate professor’s continuing appointment. If the Law School denies the application for renewal, the Dean shall promptly notify the clinical associate professor that the continuing appointment will be replaced by a term contract for a final employment period not exceeding one year from the date of notice.

4. A clinical associate professor may apply for promotion to clinical professor after serving for at least five years in the clinical associate professor rank. If the Law School grants the promotion it will become effective at the beginning of the next fiscal year. If the Law School denies the promotion, the person may make further applications in subsequent fiscal years.

5. The Law School will give a person promoted to clinical professor a new continuing appointment subject to a fifth-year review.⁵ In the fifth year of a continuing appointment, and not earlier, a clinical professor shall apply for renewal of the continuing

³ For lawyering skills faculty, a one year term appointment shall normally be an annual 9 month contract from approximately August 15-May 15.

⁴ In addition to receiving a five-year continuing term appointment, the promotion carries with it a raise in pay comparable to tenure track faculty promotions of similar rank.

⁵ This promotion also includes a pay raise comparable to tenure-track faculty promotions of similar rank.

appointment. If the Law School grants the application for renewal, the new appointment will begin at the beginning of the next fiscal year. There is no limit to the number of times that the Law School may renew a clinical professor's continuing appointment. If the Law School denies the application for renewal, the Dean shall promptly notify the clinical professor that the continuing appointment will be replaced by a term appointment for a final employment period not exceeding one year from the date of notice.

6. The Law School occasionally will hire a Lawyering Skills faculty member as a clinical associate professor or a clinical professor. It may give such a person either a one-year term appointment or a continuing appointment subject to fifth-year review. The following rules shall govern these appointments in the higher ranks:

a. One-Year Term Appointment. The Law School may renew a one-year term appointment one year at a time for up to four additional one-year contracts. The person may apply for a continuing appointment in the third or fourth contract year and must apply by the fifth contract year. If the Law School grants the application, the continuing appointment will begin at the beginning of the next fiscal year. If the Law School denies an application made in the third or fourth contract year, the person may reapply in subsequent contract years until the fifth contract year. If the Law School denies an application in the fifth contract year, the Dean shall promptly notify the person that the term appointment will not be renewed.

b. Continuing Appointment Subject To Fifth-Year Review. A person hired in a higher rank on a continuing appointment shall apply for renewal in the fifth contract year (the one-year period beginning on the date four years after the continuing appointment began). If the Law School grants the application, the new continuing appointment will begin at the beginning of the next fiscal year. If the Law School denies the application, the Dean shall promptly notify the person that the continuing appointment will be replaced by a term appointment for a final employment period not exceeding one year from the date of notice.

D. RESERVATIONS

The Law School reserves the right to terminate any appointment at any time during its term if the position is funded in whole or in part by soft money or grants and the funds for the position are substantially reduced or lost to the School of Law. Upon learning

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that funding for a position will be substantially reduced or lost, the Dean shall give prompt notice of contract termination effective on the date that the funding is to be substantially reduced or lost.

E. EVALUATION FILE

The Dean shall keep an evaluation file for each Lawyering Skills faculty member into which shall be placed such material as complies with these rules. The Lawyering Skills faculty member has the right to place any such material into this evaluation file.

F. CONSULTATION WITH THE LAWYERING SKILLS DIRECTOR AND THE DEAN

1. The Lawyering Skills Director shall consult with every Lawyering Skills faculty member each year to acquire information concerning the faculty member's activities, to advise the individual concerning his or her performance, and to establish the relative importance of the faculty member's major responsibilities. The Lawyering Skills Director shall seek the view of the Dean and all other appropriate faculty members prior to the consultation in order to advise the faculty member of any known impediments to renewal of the faculty member's appointment. The Lawyering Skills Director also shall advise the faculty member of any known impediments based on student evaluations or on information from outside sources.

2. As part of this consultation, the Lawyering Skills Director and the Lawyering Skills faculty member will agree upon the percentage of effort that the faculty member will generally devote to assigned activities and will place that figure in the annual "Faculty Statistical Report." The Lawyering Skills Director and the Lawyering Skills faculty member may jointly modify these agreed-upon percentages in the event of a later change in circumstance.

3. The Dean also shall consult with every Lawyering Skills faculty member each year as part of the Dean's normal review of goals and objectives for all faculty.

G. LAWYERING SKILLS FACULTY APPOINTMENTS COMMITTEE

The Lawyering Skills faculty appointments committee shall consist of the faculty personnel committee constituted by the Law School rules with the Lawyering Skills Director sitting as an additional member thereof.

H. LAWYERING SKILLS FACULTY EVALUATION COMMITTEE

The Lawyering Skills faculty evaluation committee shall consist of the faculty evaluation committee constituted by the Law School promotion and tenure guidelines with the Lawyering Skills Director sitting as an additional member thereof.

II. HIRING PROCEDURES

1. The Lawyering Skills faculty personnel committee will seek and screen applicants for Lawyering Skills faculty positions. It will arrange for interviews with the committee members, the Dean, the Lawyering Skills Director, the Lawyering Skills faculty, and interested members of the Clinical Faculty, Law School faculty and Law Library Faculty.

2. The committee will make its recommendations to the Dean and the Law School faculty. It shall give substantial weight to the Lawyering Skills Director's opinion.

3. All members of the Law School faculty, the Clinical Faculty, and the Library Faculty who are teaching in the Lawyering Skills program may vote on proposed appointments to Lawyering Skills faculty positions

4. Voting on Lawyering Skills faculty appointments shall be governed by the same rule of substantial opposition as governs Law School faculty appointments.

5. The Law School will not hire a person as a clinical assistant professor unless the faculty and the Dean reasonably expect that the person will later prove qualified for promotion to clinical associate professor.

III. EVALUATION RESPONSIBILITIES

1. The Dean will be responsible for the renewal or non-renewal of one-year term appointments. The Dean shall consult with the Lawyering Skills Director and give substantial weight to the Lawyering Skills Director's opinion.

2. The Lawyering Skills faculty evaluation committee will function as the review committee in second-year reviews of clinical assistant professors, in reviews for promotions, and in reviews for granting or renewing continuing appointments.

3. The committee will make its recommendations on second-year reviews to the person reviewed, the Lawyering Skills Director, and

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the Dean.

4. The committee will make its recommendations on promotions and on granting or renewing continuing appointments to the Law School faculty and the Dean. The committee shall give substantial weight to the Lawyering Skills Director's opinion.

5. Part IV of this Document specifies the procedures for developing the committee's recommendations. Part V specifies the procedures for the Law School faculty and the Dean to act on the committee's recommendations. Part VI sets the criteria to be used by the committee, the Law School faculty, and the Dean.

IV. EVALUATION PROCEDURES

A. PROCEDURES ON SECOND-YEAR REVIEWS OF CLINICAL ASSISTANT PROFESSORS

1. The second-year review of a clinical assistant professor is to be used to evaluate the person's progress toward promotion and to make recommendations designed to ensure that the person has a reasonable chance of getting promoted in their fifth contract year.

2. During the first month of the Fall and Spring academic semesters, the Lawyering Skills Director shall determine which clinical assistant professors will complete their second contract year either during the semester or before the next such semester begins. In concert with the Lawyering Skills faculty evaluation committee, the Lawyering Skills Director shall set a specific date for each such person's evaluation meeting to take place. The clinical assistant professor shall be informed in writing of the evaluation meeting date and shall also be notified that all material relevant to the evaluation should be in his or her file one week before the meeting so that committee members can review the file during that week. The file will be closed one week before the meeting date.

3. All committee members shall review the evaluation file during the week immediately preceding the evaluation discussion meeting.

4. All committee members shall attend the evaluation discussion meeting. Since the findings and conclusions of the committee are based on the evaluation file, the clinical assistant professor shall have no right to be present at the evaluation discussion meeting.

5. Within one week after the evaluation discussion meeting the committee shall issue a report evaluating the clinical assistant professor's progress toward promotion and making appropriate

recommendations. The committee shall give copies of its report to the clinical assistant professor, the Lawyering Skills Director, and the Dean and it shall put a copy in the clinical assistant professor's evaluation file.

6. The clinical assistant professor has the right to reply in writing to any critical comments, and the committee shall put a copy of any such reply in the clinical assistant professor's evaluation file.

B. ORIGINAL PROCEDURES ON PROMOTIONS AND CONTINUING APPOINTMENTS

1. During the first month of the Fall and Spring semesters, the Lawyering Skills Director shall determine which Lawyering Skills faculty are to be evaluated that semester for promotions or for granting or renewing their continuing appointments. In concert with the Lawyering Skills faculty evaluation committee, the Lawyering Skills Director shall set a specific date for each such person's evaluation meeting to take place which shall be early enough for the completion of all relevant procedures within the Law School before the end of the semester. The Lawyering Skills faculty member to be evaluated shall be informed in writing of the evaluation meeting date and shall also be notified that all material relevant to the evaluation should be in his or her file one week before the meeting so that committee members can review the file during that week. The file will be closed one week before the meeting date.

2. All committee members shall review the Lawyering Skills faculty member's evaluation file during the week immediately preceding the evaluation discussion meeting.

3. All committee members shall attend the evaluation discussion meeting. Since the findings and conclusions of the committee are based on the evaluation file, the Lawyering Skills faculty member shall have no right to be present at the evaluation discussion meeting.

4. Within one week after the evaluation discussion meeting, the committee shall issue a preliminary written report containing findings of fact and conclusions based on the material contained in the evaluation file. The committee shall prepare exactly two copies of the report, sending one copy to the Lawyering Skills faculty member and placing one copy in the evaluation file.

5. The preliminary findings and conclusions shall become the committee's final findings and conclusions unless a timely objection is filed.

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C. REVIEW PROCEDURES ON PROMOTIONS AND CONTINUING APPOINTMENTS

1. The Lawyering Skills faculty member may object to the preliminary findings and conclusions within three (3) "business" days (any day that mail is delivered to the law school) of receiving the preliminary report. The faculty member must address the objection to the committee in writing, must demand a review of findings meeting, must specify the grounds for the objection, and must list the names of any witnesses that the faculty member wants to confront or present at the review meeting.

2. The committee shall schedule a review of findings meeting to be held within three (3) "business" days of receipt of the notice of objection. It shall notify the Lawyering Skills faculty member and any requested witnesses at least twenty-four (24) hours in advance of the date, time and place of the review meeting.

3. The Lawyering Skills faculty member has the right to appear personally at the review meeting, to present information concerning relevant matters in the file, and to submit written comments concerning the findings and conclusions. The committee shall allow an oral or written response by anyone who has contributed to the file.

4. No witness shall be required to appear at the review meeting, and the committee shall have discretion as to what weight should be given to the opinions of a witness who does not appear.

5. The committee shall submit written findings within one week after the completion of the review meeting. These written findings may be the same as the findings filed prior to objection and review but must include the objection and written comments submitted by the Lawyering Skills faculty member being reviewed. These findings may include additional or substitute findings based on the presentation at the review of findings meeting.

6. The findings made by the committee after the review of findings meeting shall become the committee's final findings and shall be distributed under the same provision for distributing preliminary findings.

D. DATA COLLECTION

1. By the Lawyering Skills Faculty Member

Each Lawyering Skills faculty member shall submit an annual report to the Lawyering Skills Director and the Dean for inclusion in the faculty member's evaluation file. This annual report generally

should include the following information:

a. The faculty member's activity in direct teaching of courses or in supervising the students enrolled in clinical courses, including the nature of ongoing duties and any special projects initiated or completed. Time allocations as reported on the faculty statistical report may be particularized.

b. Committee assignments whether law school, university or other, together with a statement of time and effort devoted to the committee.

c. Publications and other products of research efforts, including title and citation and the number of pages.

d. Lectures, speeches, participation in discussion programs given anywhere except in regularly assigned courses. Titles and nature of participation should be indicated, plus time and place.

e. Offices or positions held in any relevant organization.

f. Awards or grants received.

g. Administrative work, such as sponsoring student organizations, placement, etc.

h. Student advising.

i. Funded or unfunded research activity described as to time allotted, purpose of the research, auspices under which carried out, results, etc.

j. Anything in addition to the above that reflects on teaching, scholarly and creative accomplishment, professional leadership, or public service.

2. Student Input

Student evaluation of Lawyering Skills faculty members in the following form is required:

a. The Lawyering Skills Director shall require all students to fill out anonymous student evaluation forms as a condition for receiving credit for their work. The Lawyering Skills Director shall prepare a summary of the evaluations pertaining to the Lawyering Skills faculty member and shall put a copy in the faculty member's evaluation file.

b. To supplement this information, the Lawyering Skills Director shall interview several students who were assigned to a Lawyering Skills faculty member and shall include a summary of relevant comments in the Lawyering Skills faculty member's evaluation file. In addition, the Lawyering Skills Director may ask law student employees for their comments and may include a summary of relevant comments in the Lawyering Skills faculty member's evaluation file.

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c. In deciding what weight to give to the results of these interviews, the need for supplemental information will be balanced against the risk that the interviewer may have unconsciously influenced the results.

d. The Lawyering Skills faculty member has the right to add a response to any critical comments by students or research assistants.

3. From Other Sources

Data may be provided for a Lawyering Skills faculty member's evaluation file from the following additional sources:

a. Administrative officers may provide newspaper clippings.

b. The Dean may provide such items as he or she deems appropriate.

c. Any SIUC student, faculty member, or member of the administration, and any member of the bar may submit material for inclusion in the file if that person does so under signature.

d. Letters of thanks and support from non-lawyers, including client referral agencies, also may be included.

The Lawyering Skills faculty member has the right to add a response to any critical comments from any of the foregoing sources. The contributor shall receive a copy of the response and be given one opportunity to reply.

4. Outside Evaluations

Comments from qualified persons outside SIUC are, when possible, to be included in the files of individuals who are being evaluated for promotion or for granting or renewing continuing appointments. Such outside persons should be asked to comment on the quality of teaching, professionalism, scholarship, service, or other relevant matters within their competence to judge.

V. EVALUATION DECISIONS

1. The Lawyering Skills faculty evaluation committee shall forward its written report to the Dean who shall make it available to all faculty eligible to vote on the decision.

2. All tenured members of the Law School faculty may vote on promotions to clinical associate professor and on granting or renewing continuing appointments for clinical associate professors. All tenured full professors may vote on promotions to clinical professor and on granting or renewing continuing appointments for clinical professors. Clinical Faculty members also may vote on these decisions if they

hold a rank equal to or greater than that to which a candidate seeks promotion or in which a continuing appointment is to be granted or renewed. Library faculty of equal or greater rank, who are teaching in the Lawyering Skills program may vote on these decisions. The Lawyering Skills Director may vote on all promotions and continuing appointments, whether or not the Lawyering Skills Director has tenure, and regardless of rank.

3. The vote shall be by secret ballot of those assembled.

4. A simple majority of the faculty present and voting shall be sufficient to recommend promotion or the renewal of a continuing appointment. An abstention shall count as a "no" vote.

5. The Dean shall promptly inform the candidate and the participating faculty of the outcome, and, if the decision is favorable, the Dean shall complete any necessary documents for forwarding to the central administration. This documentation shall include the Dean's own appraisal of the candidate.

VI. EVALUATION STANDARDS

A. GENERAL CRITERIA

1. The Law School will evaluate Lawyering Skills faculty members in three areas: (a) lawyering skills teaching; (b) academic, professional and social service; and (c) writing and publications. Of these areas, the most important is lawyering skills teaching. Weakness in this area cannot be offset by strength in the other two areas.

2. For promotion to clinical associate professor, the Lawyering Skills faculty member must have demonstrated excellence in lawyering skills teaching and substantial progress toward excellence in the other two areas. The Law School's assessment of progress will take into account the limits on the faculty member's years of skills teaching experience, time for service, and time for writing and publication.

3. For renewal of a continuing appointment in the clinical associate professor rank, the Lawyering Skills faculty member must have demonstrated continued excellence in lawyering skills teaching and continued progress toward excellence in the other two areas.

4. For promotion to clinical professor, the Lawyering Skills faculty member must have demonstrated excellence in all three areas. He or she must be an excellent lawyering skills teacher; must have a substantial reputation for academic, professional, and social

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service; and must have done substantial writing and publication.

5. For renewal of a continuing appointment in the clinical professor rank, the Lawyering Skills faculty member must have demonstrated continued excellence in all three areas.

B. SPECIFIC CRITERIA

1. The evaluation of the Lawyering Skills faculty member's effectiveness in lawyering skills teaching shall cover the following areas: (a) classroom or small-group instruction; (b) individual consultation and instruction with students; and (c) contributions to the methods and substance of lawyering skills teaching. Of these areas, the most important are (a) and (b).

2. The evaluation of the Lawyering Skills faculty member's service shall cover the following areas: (a) service to the law school and the university on committees and otherwise; (b) service to the legal profession through professional organizations, bar association committees, and continuing legal education; and (c) service to the public through legislative drafting and advocacy, work for public advisory commissions and volunteer work.

3. All Lawyering Skills faculty members are expected to engage in high quality writing and publication. This work may differ somewhat from that done by tenure-line Law School faculty. Nevertheless, highly analytical writing for law reviews is encouraged. In addition, Lawyering Skills faculty members will be expected to produce the following kinds of writings and publications: (a) articles in bar journals, specialized journals, and those covering clinical or legal education; (b) teaching materials for lawyering skills programs; (c) briefs or memoranda on significant legal issues; (d) practice manuals; (e) testimony in support of legislative proposals; and (f) continuing legal education materials.

4. The standard size to be used for counting writings and publications will be twenty double-spaced, typewritten pages. The Law School will consider writings and publications of any length, however, assigning fractional values to those which vary from the standard size.

5. A Lawyering Skills faculty member seeking promotion to clinical associate professor must have produced at least three standard-sized writings, or their equivalent, at least one of which must be a published article. The Law School will consider writings done at any time, including prior to joining the Lawyering Skills faculty, provided that the Lawyering Skills faculty member has

continued to write and publish in recent years

6. Lawyering Skills faculty member seeking promotion to clinical professor must have produced at least nine standard-sized writings, or their equivalent, at least three of which must be published articles. The Law School will consider writings done at any time, including prior to joining the Lawyering Skills faculty, provided that the Lawyering Skills faculty member has continued to write and publish in recent years.

7. A Lawyering Skills faculty member seeking renewal of a continuing appointment in either rank must have continued to write and publish during the period since the faculty member's continuing appointment was last subject to a fifth-year review, or, if no such review has occurred, since the faculty member received a continuing appointment. During this period, the Lawyering Skills faculty member must have produced at least three standard-sized writings, or their equivalent, at least one of which must be a published article.

TEMPLE UNIVERSITY, BEASLEY SCHOOL OF LAW

LEGAL RESEARCH & WRITING PROGRAM STANDARDS
AND PROCEDURES
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TEACHING WITHIN THE LEGAL
RESEARCH AND WRITING PROGRAM
(adopted 4/27/99) (Effective 7/26/00⁶)
(with amendments through 8/27/03)

These policies and procedures for the Legal Research and Writing Program (hereinafter “LRW Program”) apply to each full-time member of the Temple Law School Faculty appointed to a nontenure-track faculty position in the LRW Program (hereinafter “LRW Faculty Member”). At no time shall there be more than four (4) full-time, non-tenure-track LRW Faculty Members on the faculty. These policies and procedures are intended to be construed consistently with the current versions of the Temple University Faculty Guide and the School of Law’s current “Statement of Policies and Procedures of the Tenurial Faculty.” The Dean and the Director of the LRW Program (hereinafter “Director”), after consulting with the LRW Faculty and such other Faculty committees as may be appropriate, may issue additional policies and procedures regarding evaluation, promotion, and other related matters, consistent with these and other Faculty policies and procedures.

⁶ As of the contract signed 7/26/00 (effective 7/1/00-6/30/01), Law School Legal Research & Writing faculty are not subject to the provisions of IV.B.4.b of the Faculty Handbook, which imposes a seven year maximum on the number of years an untenured faculty member may be appointed.

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I. APPOINTMENT AND REAPPOINTMENT

A. TERMS OF APPOINTMENT AND REAPPOINTMENT

1. Assistant Professors. A LRW Faculty Member hired at the rank of Assistant Professor shall be appointed initially for a term of one year and may be reappointed for two additional terms of one year each, a third term of not more than three years, and then to subsequent terms of not more than six years each. These appointments are not on a tenure track and may not be converted to the tenure track.

2. Associate Professors. A LRW Faculty Member hired at the rank of Associate Professor shall be appointed initially for a term of not more than three years and then to subsequent terms of not more than six years each. These appointments are not on a tenure track and may not be converted to the tenure track.

B. NOTICE OF TERMINATION OF CONTRACTS

1. By the University. Notice that an initial or subsequent appointment is not to be renewed by the University will be given in writing to a LRW Faculty Member in advance of the expiration of the current terms of appointment, as follows:

a. Not later than March 15 of the first academic year of service;

b. Not later than December 15 of the second and third academic year of service;

c. At least twelve months before the expiration of the appointment after three or more years of service at the University.

2. By the Faculty Member. Notice that a faculty member will terminate his or her service prior to the scheduled end of a term shall be given in writing as early as possible but, in any event, not later than March 1 of the academic year in which he or she is serving.

C. STANDARDS FOR APPOINTMENT AND REAPPOINTMENT

1. Initial Appointment. A candidate for initial appointment as a LRW Faculty Member at the rank of Assistant Professor must demonstrate the potential for excellence as a teacher and scholar of legal research and writing, as shown by educational achievement, prior practice of law, prior teaching, or other relevant achievements and skills. A candidate for appointment at the rank of Associate

Professor must satisfy the Standards for promotion to Associate Professor (Para. II.A.) at the time of appointment.

2. All Reappointments. For all reappointments, a LRW Faculty member must demonstrate excellence in the teaching of legal research and writing, an ability and willingness to perform appropriate service, and familiarity with scholarship in the field of legal research and writing.

3. Longer Term Reappointments. For reappointment to a term of three years or more, a LRW faculty member must show (in addition to the required showings for teaching and service) scholarly activity resulting in published work of good quality.

4. Primary Responsibilities of LRW Faculty. A LRW Faculty Member's responsibilities should be primarily related to the LRW Program. The Dean or Associate Dean, after consultation with LRW Faculty member and the Director, will determine teaching responsibilities. Teaching responsibilities outside the Program ordinarily will not relieve the LRW Faculty Member of his or her responsibilities to the Program.

D. TIMING AND FREQUENCY OF EVALUATION

1. Initial Appointment. A LRW Faculty Member shall be initially appointed by the Dean only following the approval of the Faculty of Law. The Faculty Selection Committee shall evaluate applicants for these positions and may recommend candidates to the Faculty. On matters pertaining to the hiring of a LRW Faculty Member, the Director and one member of the LRW Faculty shall serve as a member of the Faculty Selection Committee.

2. Evaluation During Faculty Member's Initial Year. During a faculty member's initial year on the faculty, the Director will conduct an evaluation of the faculty member and make a report to the Dean and Faculty Review Committee. If so requested by the Director or the faculty member, the Faculty Review Committee may appoint a Faculty Review Panel to conduct its own evaluation as well.

3. Timing of Subsequent Evaluations. A LRW Faculty member shall be subject to evaluation by the Faculty Review Committee or Faculty Review Panel during the year preceding the end of any term of appointment and in any year in which the Faculty Member requests a promotion. Additional evaluation may be conducted if the Dean, after discussion with the LRW Faculty Member and the Director, determines that additional evaluations would be appropriate.

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4. Coordination in the Evaluation Process. Whenever possible, the Director and the Faculty Review Committee or Faculty Review Panel should coordinate their evaluations. In those years in which a candidate is subject to faculty evaluation pursuant to Para. I.E., below, the Director's evaluation (if any) shall be shared with the Faculty Review Committee or Faculty Review Panel as the case may be.

E. PROCEDURES FOR REAPPOINTMENT AND EVALUATION

1. General.

a. All Reappointments. Except as provided in E.1.b., below, reappointment for any term to exceed one year may be made by the Dean after giving due deference to the written recommendation made to the Tenorial Faculty and to the Dean by the Faculty Review Committee or Faculty Review Panel. Inasmuch as evaluation of LRW Faculty is primarily a faculty responsibility, the Dean should presumptively follow the recommendation of the Faculty Review Committee or Faculty Review Panel.

b. Second Reappointment of Three Years or More. Reappointment for a candidate's second term of three years or more may be made by the Dean after giving due deference to a written recommendation by the Faculty Review Committee and a vote of the Tenorial Faculty. Inasmuch as evaluation of LRW Faculty is primarily a faculty responsibility, the Dean should presumptively follow the recommendation of the Tenorial Faculty. Faculty voting on subsequent multi-year term reappointments shall not be required.

2. Faculty Review Panels. For all reappointments for terms of one or two years, the Faculty Review Committee shall conduct its evaluation through a two-person Faculty Review Panel appointed from a pool consisting of the tenured faculty and the LRW Faculty who are Associate or full Professors appointed for terms of at least three years, by the Chair of the Faculty Review Committee in consultation with the Chair of the Tenorial Faculty, the Dean, and the Director of the Legal Research and Writing Program.

3. Faculty Review Committee and Faculty Review Panel Procedure. The Faculty Review Committee or Faculty Review Panel shall proceed with its review of the candidate for reappointment generally as follows:

a. Initiation of the Reappointment Process. By April 30 of every Academic year, the Chair of the Tenorial Faculty shall ascertain from the Dean and the Director of the Legal Writing

Program whether any LRW faculty terms will expire on June 30 of the following year and, if so, will learn from those faculty whether they desire to be reappointed for a subsequent term. The Chair will then communicate any statements of intent to seek reappointment to the Chair of the Faculty Review Committee. By September 1 of the academic year in which a decision on reappointment is sought, the faculty member shall submit to the Chair of the Faculty Review Committee one copy of a candidate portfolio. Scholarship on which the faculty member wishes to rely may be added to the candidate portfolio through September 15.

b. Procedure for Evaluation. The Faculty Review Committee shall conduct its review and formulate its recommendations as follows:

1. Candidate Portfolio. The LRW Faculty Member being reviewed shall submit to the Faculty Review Committee a candidate portfolio which includes:

- (a) A list of courses taught at the law school;
- (b) Current year's syllabi;
- (c) A final examination, if any were given;
- (d) At least 3 critiqued student papers;
- (e) Student teaching evaluations;
- (f) A copy of all published work since the last Faculty Review Committee or Faculty Review Panel Report;
- (g) A list of committee assignments since the last Faculty Review Committee Report and a description of other service activities outside of the law school since that time;
- (h) Prior written evaluations;
- (i) Scholarly works in progress or any other material the candidate deems relevant.

2. Evaluation of Teaching. The Faculty Review Committee or Faculty Review Panel shall evaluate the candidate's teaching through class visitations, and through a review of the candidate's student evaluations and critiqued papers. At least two Committee or Panel members should each view two classes and they should work with the candidate and the Director to minimize class disruption. With the consent of the LRW Faculty member, reviewing a videotape of a class or of a session with an individual student is an appropriate substitute for one in-class evaluation. Prior to a class visit, the evaluator(s) should consult with the candidate about plans for the class(es) and after the visit, the evaluator(s) should discuss the observations concerning the classes visited.

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3. Evaluation of Published Work.

(a) General. Evaluation of a candidate's published work in the field of Legal Research and Writing shall be conducted by the Faculty Review Committee or Faculty Review Panel in consultation with the Director.

(b) Second Appointment of Three Years or More. When a candidate has applied for his or her second term of three years or more, the Committee shall, after discussion with the LRW Faculty Member under review, consult with at least two scholars who are not members of the Temple faculty regarding the scholarship the Committee must review. The Committee shall request from the Faculty Member under review the names of scholars who might be able to review the scholarship and shall obtain a review of the LRW Faculty Member's scholarship from at least one of those scholars. Any scholar who reviews a LRW Faculty Member's scholarship shall submit a written report that discusses the extent to which the work in question reflects knowledge of the subject matter and makes a positive contribution to the field as well as such other information or commentary as the scholar deems relevant to the LRW Faculty Member's qualifications for a longer-term reappointment. The LRW Faculty Member under review shall be entitled to see and respond to any written report prepared by such a scholar, provided that the report is redacted to preserve the scholar's anonymity.

1. Evaluation of Service. Evaluation of the candidate's service should include consultation with Chairs of law school committees on which the candidate has served and others with relevant knowledge of the candidate's performance of service.

2. Report. The Faculty Review Committee shall write a report describing its observations and evaluation and setting forth its recommendation regarding reappointment.

3. Distribution of Report. The Report shall be circulated to the LRW Faculty member, the Dean, the Director, and to members of the Tenured Faculty for information or action (Para. I.E.1.b.) as the case may be.

II. PROMOTION

A. STANDARDS FOR PROMOTION

The promotion of a LRW Faculty Member to the rank of Associate Professor or Professor shall be based upon the following:

1. General—Teaching. The primary criteria for promotion to both ranks are the excellence of the LRW Faculty Member's teaching of legal research and writing and the LRW Faculty Member's contribution to the development of the LRW Program. In addition to demonstrated excellence in teaching, promotion to the rank of Associate Professor or Professor requires levels of scholarship and service appropriate to these academic ranks.

2. Scholarship

a. Associate Professor. For promotion to Associate Professor, the LRW Faculty Member must demonstrate significant achievement in scholarship based on at least one professional work in legal research and writing written and published, or submitted for publication, after the LRW Faculty Member became a member of the Temple faculty. Additional scholarship beyond the foregoing requirement which is not in the field of legal research and writing may be considered as well. A piece which has not been published may be considered only if it has been completed (subject to editorial revision) and has been submitted for publication.

b. Professor. For promotion to Professor, the LRW Faculty Member must have achieved professional recognition in the field of Legal Writing through published, original work beyond that required for promotion to Associate Professor. To be considered by the Faculty Review Committee, written work must be accepted for publication by November 1 of the academic year in which promotion is sought.

3. Service

a. Associate Professor. For promotion to Associate Professor, the LRW Faculty Member must have demonstrated an ability and willingness to perform appropriate service.

b. Professor. For promotion to Professor, the LRW Faculty Member ordinarily must have either

1. Shown effective leadership; or
2. Made major service contributions in the public community, the legal profession, the University or the Law School.

B. SPECIAL PROCEDURES FOR PROMOTION

1. Timing. Except in extraordinary cases, a LRW Faculty Member who holds the rank of Assistant Professor shall not be considered for promotion to Associate Professor prior to the faculty member's third year of full-time teaching of legal research and writing; a LRW Faculty Member who holds the rank of Associate Professor shall not be considered for promotion to Professor prior to

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the faculty member's fourth year of full time teaching at the rank of Associate Professor.

2. Evaluation Procedure. A LRW Faculty Member who applies for promotion to Associate Professor or Professor shall be evaluated by the Law School Faculty Review Committee generally in accordance with the procedures outlined in Paragraph I.E. above except to the extent these procedures are inconsistent with the promotion procedures set forth in the Temple University School of Law "Statement of Policies and Procedures of the Tenorial Faculty." The Faculty Review Committee and Dean shall consult with the Director, and the Director may make an independent recommendation to the Promotions Faculty and Dean. As in the analogous case of reappointment (I.E.1.b.), inasmuch as evaluation of LRW Faculty is primarily a faculty responsibility, the Dean should presumptively follow the recommendation of the Promotions Faculty.

3. Evaluation of Scholarship. When a LRW Faculty Member applies for promotion to Associate Professor or Professor, the Faculty Review Committee shall, after discussion with the LRW Faculty Member under review, consult with at least two scholars who are not members of the Temple faculty regarding the scholarship the Committee must review. The Committee shall request from the Faculty Member under review the names of scholars who might be able to review the scholarship and shall obtain a review of the LRW Faculty Member's scholarship from at least one of those scholars. Any scholar who reviews a LRW Faculty Member's scholarship shall submit a written report that discusses the extent to which the work in question reflects knowledge of the subject matter and makes a positive contribution to the field as well as such other information or commentary as the scholar deems relevant to the LRW Faculty Member's qualifications for promotion. The LRW Faculty Member under review shall be entitled to see and respond to any written report prepared by such a scholar, provided that the report is redacted to preserve the scholar's anonymity.

III. FACULTY REDUCTIONS CAUSED BY FINANCIAL OR EDUCATIONAL REASONS

Pursuant to University policy, the Law School reserves the right, for educational or financial reasons, to reduce or eliminate full-time positions in the LRW Program and, upon twelve months' written notice, to terminate any multi-year contract of an affected LRW Faculty Member

NO. 15

UNIVERSITY OF FLORIDA, FREDRIC G. LEVIN COLLEGE OF LAW

To:

From:

Re: Standards for promotion of Lecturers to Senior Lecturer

As you may know, the University Central Administration has set up a procedure by which non-tenure-track faculty presently designated as Lecturers might be “promoted” to Senior Lecturer. The promotion carries with it the change in designation and a 9% raise in salary, and no other benefits.

A candidate for promotion is to be vetted by the faculty who, by secret ballot, decides whether to approve and forward the candidacy to the Central Administration.

The Protocol on lecturer promotions, provided by the Central Administration, contains some guidance with respect to evaluation of candidates. However, very little of the proffered guidance is useful in our own College of Law context. Therefore, the Non-Tenure-Track Faculty Appointments and Retention Committee has drafted, for consideration by the faculty as a whole, a protocol for evaluation of a non-tenure-track faculty member from the College of law as a candidate for Senior Lecturer status.

The Committee has set out in the attached document the suggested protocol.

PROTOCOL FOR PROMOTION OF LECTURER TO SENIOR LECTURER IN THE COLLEGE OF LAW

I. PROCEDURE FOR APPLICATION FOR PROMOTION

A. DISTRIBUTION OF UNIVERSITY PROMOTION MEMO

Upon request by a candidate for promotion to Senior Lecturer, the Dean’s Office shall distribute to that candidate the University Memorandum on Promotion and Tenure.

B. PREPARATION OF CANDIDATE’S PACKET

Candidates for promotion to Senior Lecturer shall prepare a promotion packet in compliance with the relevant portions of the University Memorandum on Promotion and Tenure and in

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compliance with the Protocol for Promotion of Lecturer to Senior Lecturer, adopted by the faculty of the College of Law.

Where letters of recommendation or review are required, letters from inside the College of Law are sufficient.

C. SUBMISSION OF CANDIDATE'S PACKET

The Candidate should submit the promotion packet to the Non-Tenure-Track Appointment and Retention Committee on or before October 31.

II. PROCEDURE FOR CONSIDERATION OF APPLICATION

A. DISTRIBUTION OF CANDIDATE'S PACKET TO FACULTY

The Committee shall distribute to all voting faculty holding the position of Senior Lecturer or above copies of the Candidate's packet, or if lengthy, relevant portions of the Candidate's packet. If only portions of the Candidate's packet are distributed, the Committee shall make the remainder of the packet otherwise available for review by the voting Faculty.

B. CONSIDERATION OF CANDIDATE'S PACKET BY FACULTY

For discussion of and voting on the Candidate's Packet, the voting Faculty shall follow the procedures set forth in the Faculty Policy Manual under "Promotion and Tenure -Discussion Meeting, Voting and Confidentiality, " as well as the Criteria set forth in this Protocol.

III. CRITERIA FOR PROMOTION TO SENIOR LECTURER

A. DEMONSTRATION OF EXCELLENCE IN TEACHING

A candidate for promotion to Senior Lecturer must demonstrate excellence in Teaching. Teaching includes classroom teaching, preparation for teaching, and student conferences. If a candidate engages in the practice of law as required by his or her law school employment (e.g., clinical teaching), teaching may also include that practice of law.

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LEGAL WRITING FACULTY

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B. CRITERIA FOR EVALUATING TEACHING

When evaluating a Candidate's teaching, the Faculty should consider factors including, but not limited to, the following:

- 1) teaching evaluations rendered by students
- 2) teaching evaluations rendered by Committee members who have reviewed the Candidate's teaching.
- 3) recommendations and evaluation of the Candidate's director.
- 4) recommendations and evaluations by peers in the Candidate's program.
- 5) the Candidate's overall commitment to teaching as reflected in the Candidate's packet, including description of teaching methods and materials, out-of-classroom teaching, written and other feedback provided to students, development of new or innovative methods and materials.

C. DEMONSTRATION OF EXCELLENCE IN SERVICE

A Candidate for promotion to Senior Lecturer must demonstrate excellence in Service. Service includes committee service on the College or University level, or service to the profession. Service may also include community service, but community service is not a necessary component of the evaluation.

EVALUATION CRITERIA FOR LEGAL SKILLS PROFESSORS

Legal Research, Writing, and Appellate Advocacy

1. OVERALL EFFECTIVENESS AS A LEGAL SKILLS PROFESSOR.

General: Overall evaluation subsumes of all relevant factors pertaining to job performance.

2. COMMITMENT TO THE JOB OF LEGAL SKILLS PROFESSOR.

General: Job commitment subsumes of all stated factors plus of the candidate's general attitude toward the job and the institution as evidenced by performance, participation, collegiality and other intangible evidences of effectiveness.

Specific points to be considered include:

- A. Demonstrates interest and proficiency in effective legal

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writing and professional performance.

B. Is effective in committee work and service to the school.

3. COMPETENCE AS A TEACHER.

General: Competence as a teacher includes effectiveness in oral and written communication of didactic information and success in encouraging students to participate as required by the goals of the programs.

Specific points to be considered include:

A. Classroom Teaching Performance:

(1) Demonstrates a command of effective legal analysis, legal writing and oral advocacy techniques.

(2) Conducts focused, well-organized class sessions that are conducive to learning.

(3) Stimulates useful student discussion and participation.

B. Written Evaluation of Student Papers:

(1) Provides insightful, detailed critiques of student papers with written comments that:

(a) distinguish between effective and ineffective writing and analysis;

(b) explain why one thing works and while [sic] another does not;

(c) identify misunderstandings or habits that cause ineffective writing;

(d) identify means to improve;

(e) inspire improvement;

(f) apply uniform grading standards;

(g) focus on most important defects;

(h) evaluate papers in terms of practical effectiveness, rather than in terms of the teacher's own personal preferences.

C. Imparts knowledge and understanding of basic research sources and the necessary skills for effective legal problem solving.

D. Creates effective writing exercises.

E. Creates effective research exercises and problems.

F. Imparts effective appellate oral argument techniques.

G. Conveys information in an understandable and intellectually and emotionally acceptable manner.

4. RELIABILITY, PROMPTNESS AND PROFESSIONALISM.

General: Reliability, promptness and professionalism require regular and timely completion of all assigned tasks.

5. AVAILABILITY TO THE STUDENTS AND TO COLLEAGUES.

General: Availability to students and colleagues requires legal skills professors to be readily accessible to them and to do most of their work on the law school premises or other work site.

Specific points to be evaluated include:

- A. Coordinates and works effectively with other Legal Writing teachers.
- B. Grades and returns papers in a timely fashion.
- C. Provides fair notice of assignments.
- D. Is readily available to students for one-on-one consultation.

6. COLLEGIAL PARTICIPATION IN THE PROGRAM AND THE COLLEGE.

General: Collegial participation includes collaborative work in developing and executing the program and governance of the program and the college.

Specific points to be considered include:

- A. Selects and supervises qualified teaching assistants.
- B. Helps create teaching materials for the program.
- C. Conveys innovative teaching ideas to teaching colleagues.

7. SERVICE TO THE PROFESSION AND THE COMMUNITY.

General: All University employees are encouraged to support the profession and the community and are entitled to be recognized for their efforts.

UNIVERSITY OF TOLEDO COLLEGE OF LAW⁷

ARTICLE III. CRITERIA

SECTION A. INITIAL APPOINTMENT

1. Instructor of Law. A candidate must have sufficient background and experience to justify the expectation that he or she will be able to meet the criteria for reappointment at the end of the contract term.

2. Assistant Professor. A candidate must have a sufficient background and experience to justify the expectation that he or she will be able to meet the criteria for tenure within the time period established by these rules.

3. Rank above Assistant Professor or with Tenure. A candidate must meet the criteria established by these rules for promotion to the rank or for tenure or must possess equivalent experience in law practice or other related work.

4. Years of Service. At the time of appointment, the Dean may grant a candidate credit toward promotion and tenure for experience at an academic institution.

SECTION B. RENEWAL, PROMOTION AND TENURE OF FACULTY

1. Faculty (except Law Librarian)

a. Definitions

(1) Publication. Publication, unless otherwise defined, includes books, articles in law reviews, or articles in other scholarly journals in the fields of law, legal education or related areas. When a completed work has been accepted for publication, the acceptance will suffice. A book may be considered the equivalent of two publications.

(2) Service. Service to the College of Law, the University, the profession, and the community includes:

(a) Development of New Course of Program. A new course or program will usually be one which affects the curriculum of the University. Other new programs may not affect directly the

⁷ Selected portions of the promotion and retention standards were provided. As such, formatting and section numbering for this document have been modified for ease of use.

curriculum, but may nonetheless be important contributions to the scope of legal education.

(b) College of Law and University Service. Service, as distinguished from mere membership on college and university committees and governing bodies, as well as performance of other non-teaching responsibilities within the college or university including administrative service are included in this factor.

(c) Professional and Community Activity. Professional or academic service (as distinguished from institutional affiliation) in the public interest.

SECTION C. REAPPOINTMENT OF INSTRUCTORS OF LAW IN LEGAL RESEARCH, WRITING, AND APPELLATE ADVOCACY

1. Definition of Teaching. For the purpose of assessing teaching ability, the following are relevant: conduct of the class which is calculated to induce development of analytical thinking among students; comprehensive knowledge of the field, including theoretical and practical developments; ability to communicate knowledge to students; thorough class preparation; presentation of materials appropriate to the subject matter; appropriate allocation of class assignments; availability and willingness to discuss the subject matter with students; maintenance of regular advertised office hours; reasonable and fair evaluation of the student; willingness to engage in innovative teaching methods; and evaluations of teaching.

2. Threshold Criteria

(a) Reappointment to a one-year term. To meet the threshold criteria for reappointment to another one-year term, and Instructor of Law must demonstrate sufficient proficiency in the teaching of legal research, writing, and appellate advocacy to justify the expectation that he or she will be able to meet the criteria for appointment to a three-year renewable term upon completion of the appointment. An Instructor of law may be appointed to a maximum of two one-year terms.

(b) Reappointment to a three-year term. To meet the threshold criteria for reappointment to a three-year term, an Instructor of Law must demonstrate sufficient proficiency in the teaching of legal research, writing, and appellate advocacy to justify the expectation that he or she will be able to meet the criteria for appointment to a five-year renewable term upon completion of the three-year appointment. An Instructor of Law may be appointed to only one three-year term.

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(c) Reappointment to a five-year term. An Instructor of Law need not have been reappointed to a three-year term in order to be reappointed to a five-year term. To meet the threshold criteria for reappointment to a five-year term, and Instructor of Law must:

(1) demonstrate excellence in teaching legal research and writing, and;

(2) participate in meetings of the instruction staff, including committee meetings, and, as appropriate; in the affairs of the University, the community, and the legal profession.

SECTION D. DISCRETION

An individual who fulfills the appropriate threshold criteria identified in this article is eligible for consideration for initial appointment, reappointment, renewal, promotion, or tenure, but individual decisions rest within the informed discretion of those charged with the decision.

SECTION E. FULL-TIME OBLIGATION

Full-time instructors shall meet the full-time obligation established by the University's rules.

SECTION F. APPOINTMENTS MEETING

1. Dean's Responsibility. The Dean may participate in discussions about and may vote on appointments. The Dean may act contrary to a decision reached in an appointments meeting only for compelling reasons. If the Dean decides to act contrary to a decision, the Dean shall, as soon as possible, distribute to those persons who were eligible to vote a written statement containing the compelling reasons for his or her decision. The enumeration of the Dean's responsibilities in this section shall not be construed to affect the responsibilities of the Dean provided elsewhere in these rules or by University rules.

2. Participation and Quorum. Only the Dean and those instructors entitled to vote may participate in the meeting. A majority of those entitled to vote constitutes a quorum.

3. Voting

a. Instructors of Law in legal research and writing are entitled to vote only on non-tenure track appointments in the legal research and writing program.

b. Instructors of Law in clinical education are entitled to vote only on non-tenure track appointments in the clinical law program.

c. When appointments are considered at a rank above Assistant Professor, only persons holding the rank to which the candidate would be appointed or a higher rank are entitled to vote on the question of rank.

d. When appointments with tenure are considered, only persons holding tenure are entitled to vote on the question of tenure.

SECTION G. MEETINGS FOR REAPPOINTMENT OF INSTRUCTORS OF LAW

1. Dean's Responsibility. The Dean may attend and participate in meetings at which the reappointment of an Instructor of Law is considered, but may not vote. If the Dean disagrees with the result of the vote, the Dean may reverse that result, giving the reasons for the reversal.

2. Participation and Quorum. Only the Dean and those instructors entitled to vote may participate in the meeting. A majority of those entitled to vote constitutes a quorum.

3. Voting

a. The following instructions (excluding the Dean) may vote on reappointment decisions:

(1) Faculty members who have completed one year of service,

(2) Instructors of Law in legal research and writing who are voting on non-tenure track instructors in the legal research and writing program (other than the Director of the program) and who have completed at least one more year of service than the instructor who is under consideration, and;

(3) Instructors of Law in clinical education who are voting on non-tenure track instructors in the clinical law program (other than the Director of the program) and who have completed at least one more year of service than the instructor who is under consideration.

b. A two-thirds majority of those who were present and eligible to vote at the first meeting may override a Dean's decision to reverse the result of a vote.