

SKILLS TRAINING AND OUTREACH COMMITTEE
PROPOSAL ON CLINICAL FACULTY HIRING AND PROMOTIONS

As adopted at the Faculty Meeting, May 6, 2004

This proposal addresses four areas: (1) Clinical Title Series, (2) Hiring Process, (3) Promotion Process, and (4) Hiring & Promotion Criteria. Within each area, a description of current practice is followed by the proposed changes.

I. TITLE SERIES

A. Current Title Series

Under the Law School's current written policy, adopted in 1987 after the Hayes-Hill exercise, the clinical title series goes as follows:

Clinical Instructor (1-year renewable or nonrenewable) →
Clinical Assistant Professor (2-year rolling horizon) →
Clinical Associate professor (3-year rolling horizon) →
Clinical Professor (3-year rolling horizon) →
Clinical Professor with Indefinite Status

The University also allows the addition of a "distinguished" prefix to the senior title.

B. Proposed Title Series:

Clinical Instructor: 1- or 2-year renewable or nonrenewable appointment.

Hired directly by program director with approval of Dean. If the appointment is for 1 year only, the person could be reappointed once, but for not more than 2 years total. This rule would be consistent with the UW Academic Staff Policies and Procedures, sec. 2.01(1)(c)(2). If there is a vacant Clinical Assistant Professor position, the Clinical Instructor may compete for that position in an open hiring process.

Clinical Assistant Professor: 2-year rolling horizon appointment.

To be appointed, applicant would have to demonstrate potential to meet the criteria for promotion to Clinical Associate Professor on a reasonable timetable. See Section IV(B) below.

Clinical Associate Professor: 3-year rolling horizon appointment.

Must have at least 3 years of service as a Clinical Assistant Professor; or, if laterally hired from another law school or comparable experience, must have at least one year of service as a Clinical Assistant Professor at UW and a total of 3 years equivalent experience (as determined by the Skills Training and Outreach Committee). Must meet the criteria for hire or promotion to the title Clinical Associate Professor set forth in Section IV below.

Clinical Professor: 4-year rolling horizon appointment; eligible for indefinite status.

Must have at least 4 years of service as a Clinical Associate Professor or, if laterally hired from another law school or other comparable experience, must have at least one year of service as a Clinical Associate Professor at UW and a total of 4 years equivalent experience (as determined by the Skills Training and Outreach Committee). Must demonstrate leadership with regard to the criteria for hiring and promotion described in Section IV below.

II. HIRING PROCESS

A. Current Hiring Process

Directors of clinical programs make hiring decisions for those programs, with the final approval of the Dean. There is no formal role for the faculty in hiring clinical faculty.

B. Proposed Hiring Process

Program Directors have authority to fill vacancies in the title of Clinical Instructor, without participation of the faculty or the Skills Training and Outreach Committee. This authority allows directors to fill junior clinician vacancies which sometimes arise, without warning, when pre-existing caseload demands render unrealistic the full Committee process described below.

With regard to the hiring process for any position above Clinical Instructor, the Program Director screens applicants and submit an agreed-upon number of finalists to the Skills Training and Outreach Committee.¹ The Committee or a subcommittee then invites each of the finalists to make a live presentation to the Law School. The presentation would be of the candidate's own design with consultation, if requested, from a representative of the Committee familiar with the candidate's application. Presentations would be made to the Committee, but publicized and open to all faculty, staff, and students.

We anticipate that these presentations would be analogous to, but appropriately distinguishable from, job talks by candidates for tenure track positions. The goal of these presentations would be to enable the Law School to assess the candidate's promise as a member of the clinical faculty, including specifically the prospects his or her promotion in due course, under the applicable promotion criteria in Section IV. For example, the applicant could present a sample class, or a teaching/supervision session with a student; could talk about an area of law in which he or she has developed some expertise; or could discuss some aspect of clinical legal education.

¹ This proposal contemplates that, in rare circumstances and at his/her discretion, the Dean might make strategic hires.

Through a process set in motion by the Committee, feedback regarding the candidate's suitability for hire would be solicited from Committee members, from the faculty and from the Program Director—a process similar to the one used to evaluate candidates for tenure-track appointment. The Committee would then assess the applicant's potential for satisfying the criteria for hiring and promotion described in Section IV below, and report to the faculty its findings from the assessment process, and its recommendation as to hiring or not. The recommendation can be submitted as a consent item, if the Committee and the Dean so determine.

A probationary period of between six and twelve months would be required for all new hires, so that program directors can conduct final, on-the-job evaluations. The probationary period is to be specified in the appointment letter.

III. PROMOTION PROCESS

A. Current Process for Promotion

Promotions from Clinical Instructor to Clinical Assistant Professor have been made by Program Directors, with the approval of the Dean but without necessity of any other faculty involvement. For the next two promotional rungs (promotions from Clinical Assistant Professor to Clinical Associate Professor, and from Clinical Associate Professor to Clinical Professor), the Skills Training and Outreach Committee must recommend promotion to the faculty, which votes it up or down. Historically, the Skills Training and Outreach Committee has not put promotion applicants through a robust process of evaluation, but has based its review on a written recommendation from the applicant's Program Director (if there is one) and on the applicant's written request for promotion and materials submitted in support of it.

Promotion within the clinical title series carries some benefits. Under UW academic staff rules, a title promotion must carry at least a 5% salary increase; historically, the Law School has given a 10% increase. In addition, promotion has carried some increased job security: Clinical Instructors generally have received one-year terminal or renewable appointments; Clinical Assistant Professors have received 2-year rolling horizon appointments; Clinical Associate Professors and Clinical Professors have received 3-year rolling horizon appointments; and Clinical Professors are eligible to apply for indefinite status. Finally, under a faculty rule adopted in 2001, Clinical Associate Professors and Clinical Professors have limited voting rights at faculty meetings.

The current promotion policy has two promotion tracks, one for the directors of clinical programs and one for non-directors. For non-directors (that is, most clinicians), the written promotion criteria involve merit-based factors plus years of service at each rung of the title ladder: Two years for promotion from Clinical Instructor to Clinical Assistant Professor, 3 for promotion from Clinical Assistant Professor to Clinical Associate Professor, and 4 for promotion from Clinical Associate Professor to Clinical Professor. The time-in-post requirements are clear (though they have been waived on occasion), but the merit-based promotion criteria are relatively vague. For some time, by unwritten policy, only Program Directors have been considered for promotion to the Clinical Professor title. The

unintended consequence has been creation of a “top rung” on the promotion ladder (Clinical Associate Professor) for most of the clinical faculty. This was among the factors motivating the Skills Training and Outreach Committee and the clinical faculty generally to seek reform and specification of the promotional criteria and processes.

B. New Process for Promotion

An applicant for promotion to Clinical Associate Professor or Clinical Professor applies individually to the Skills Training and Outreach Committee. The Committee appoints an “evaluation subcommittee” of 2-3 members, including at least one clinician. The “evaluation subcommittee” conducts a full evaluation of the applicant’s suitability for promotion, including interviews with students, with representatives of outside agencies with which the candidate has worked, with the candidate’s colleagues, with others having knowledge of the candidate’s career, and with the candidate her- or himself. The subcommittee reviews written materials submitted by applicant or others. The subcommittee observes the applicant’s clinical teaching, within the confidentiality limits imposed by the nature of live-client work. The subcommittee consults with the applicant’s Program Director, for assessment of the applicant’s performance of responsibilities and her or his accomplishments within the program. The subcommittee then assesses the applicant’s suitability for promotion in light of the promotion criteria described in section IV below. The subcommittee reports back to the full Committee which, after considering that report, makes a recommendation to the faculty, for its up or down vote.

C. Transitional Procedure

Faculty adoption of these new promotional criteria and process would immediately create a pool of Clinical Associate Professors eligible to be considered for promotion to Clinical Professor. The Clinical Associate Professors who have previously applied for promotion will be considered first, in the order of submission of their pending applications. It is expected that these candidates will re-submit in order to bring their applications up to date and to take account of the new promotional criteria and procedures. The Clinical Associate Professors who have not previously applied for promotion, and who apply by September 2nd, 2004, will next be considered for promotion, in the order of their becoming eligible. That is, they will be considered in the order in which they accumulated 4 years of service as UW Clinical Associate Professors, or (for those laterally hired) accumulated at least one year of service as UW Clinical Associate Professors and a total of 4 years equivalent experience (as determined by the Skills Training and Outreach Committee). *[This paragraph replaces the corresponding paragraphs of the proposal previously discussed by the faculty.]*

IV. NEW HIRING AND PROMOTION CRITERIA

Clinical faculty contribute to the education of law students primarily by working with them, individually or in small groups, representing real clients. However, some clinical faculty also teach simulation courses, some teach core Law School courses and a number have contributed to the national discussion, among clinical educators, on “best practices” in this field.

Clinical faculty are educators who are also practicing attorneys. Their professional contribution, the value they create, is found in the services they provide directly through the students they supervise, to individuals, to groups, and to agencies. They also contribute to advancement of the law, through their written work and oral presentations to groups and agencies. In other words, the Law School's clinical faculty aims to exemplify "The Wisconsin Idea."

An individual's suitability for hire or promotion in the clinical faculty is to be assessed in each of three broad categories:

1. Contributions to the education of law students;
2. Contributions to the community (including Law School and University); and
3. Contributions to the advancement of law.

These broad criteria are briefly defined below. They are likely to be weighted differently for different postings, both within and between programs, and for different applicants for hire or for promotion to those posts.

A. Contributions to the Education of Law Students

For assessment under this criterion are:

- Excellence in teaching students in individual, small group, and/or classroom settings
Excellent ability to convey subject matter through supervision of case work and/or in the classroom; excellence in inspiring in students the creativity, diligence, and responsibility that mark the best in the profession.
- Leadership in developing, implementing, and (where appropriate) administering the educational curriculum of the Law School and its clinical programs
Leadership in developing and sharing teaching methods and materials; developing course curriculum and/or clinical projects; sharing educational ideas within the law school and more broadly among the nation's clinical legal educators.

Evaluation methodology for this criterion: Review of the candidate's teaching evaluations and course materials; observation of the candidate's teaching [there are likely to be issues of professional responsibility to manage with care, when the Committee seeks to conduct such observations in live-client clinics]; review of conference presentations; interviews with the candidate's current and former students, colleagues and Program Director.

B. Contributions to the Community

A nonexhaustive list of the kinds of contribution worthy of assessment under this criterion includes the following:

- Excellent lawyering on behalf of clients
- Service of value to the legal system (e.g., by incorporating the clinician's expertise in amicus briefs where appropriate)
- Bar activities
- Administrative service to the clinical programs at the UW Law School
- Service on Law School and University committees
- Lending expertise to the drafting of legislation and/or administrative rules (i.e. serving on drafting committees and the like, testifying before legislative bodies or advising agencies, helping to draft language)
- Working cooperatively with governmental agencies to identify and resolve problems as they arise (e.g. Wisconsin Departments of Corrections, Workforce Development, Agriculture, Trade and Consumer Protection, and Health and Family Services and legislative bodies)
- Publications that share with the field knowledge derived from the work clinicians do
- Organizing conferences and symposia on educational or legal issues
- Speaking before organizations external to the Law School
- Management, development, and administration of clinical programs, including but not limited to seeking and securing external resources (financial and otherwise) to support operations of the UW Law School's clinical education programs.

Evaluation methodology for this criterion: Review of client satisfaction surveys; interviews with other relevant constituencies (e.g. members of the public, and personnel of state and federal agencies who have knowledge of the services and expertise the applicant offers); interviews with persons who have served with the applicant on Law School or University committees or committees in the community, interviews with colleagues and with the applicant's Program Director.

C. Contributions to the Advancement of Law

A nonexhaustive list of the kinds of contributions worthy of consideration under this criterion includes the following:

- Mounting, managing and disseminating the results of empirical research
- Authoring and arguing trial, appellate, and amicus briefs whose research, reasoning, and rhetoric are of noteworthy quality
- Publishing articles in law reviews and/or other scholarly journals, and in publications aimed at policy-makers or the practicing bar (e.g. *Wisconsin Lawyer*)
- Authoring book chapters
- Delivering presentations at symposia and conferences

- Making presentations to and giving expert testimony before legislative committees or tribunals

Evaluation methodology for this criterion: Committee and subcommittee review of the candidate's written work, focused on soundness of the research and the reasoning and on the work's creativity, and on how substantially the work contributes to the advancement of knowledge in the field; review by peers at other law schools of the candidate's written work; interviews with persons who have heard the candidate's oral presentations or testimony.

Application of the New Hiring and Promotion Criteria.

- To be hired as a Clinical Assistant Professor, an applicant *must show sufficient potential* for excellence, in the three areas defined above, for it to be plausible that the candidate will qualify for promotion, within a reasonable timeframe, to Clinical Associate Professor.
- To be hired as or promoted to Clinical Associate Professor, an applicant or promotion candidate *must be demonstrating* excellence in the three areas.
- To be hired as or promoted to a Clinical Professor, a job applicant or promotion candidate must demonstrate not only excellence but *must demonstrate leadership in the* three areas. Depending on context, this could mean leadership within the Law School, within the University, the state's legal community, nationally or internationally.

These hiring and promotion criteria presume that all members of the Law School's clinical faculty should be able to move up the title series, taking on increased responsibility as they do so, but that no one is entitled to a promotion because of longevity in post.