



**PACE UNIVERSITY SCHOOL OF LAW**  
**FACULTY REGULATIONS GOVERNING**  
**TENURE, PROMOTION, AND REAPPOINTMENT**

*AS AMENDED THROUGH 4/16/08*

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## **Preamble**

The academic rank of each member of the faculty reflects accomplishment and merit in teaching, in scholarship and research, and in service to Pace University, the Law School, and to professional associations, civic associations, and the public. Academic appointment carries with it the assurance of academic freedom. The rank of each faculty member carries such privileges and recognition as the University, Law School and legal profession may from time to time accord it. Promotion involves a judgment by a faculty member's faculty peers, joined in by the Dean of the Law School and the Trustees of Pace University, that the faculty member's performance in teaching, scholarship and service meets defined standards of accomplishment. Designation of rank and specification of salary and other matters relevant to rank are defined in a written contract between each faculty member and Pace University.

Academic tenure is the right of a faculty member to appointment on a continuing basis. It is a contractual relationship between the faculty member and the University which assumes a strong moral commitment between the parties, including mutual service and support between the University and each faculty member. Academic tenure is a guarantee of academic freedom, specifically in freedom of teaching, research and public service commitments. Tenure affords a sufficient degree of economic security to make service in the faculty of the Law School attractive to persons of ability.

These regulations are adopted for the purposes of assuring an environment of academic freedom and excellence, and securing the benefits thereof. They embrace the spirit expressed by the U.S. Supreme Court in its observation that: "Our nation is deeply committed to safeguarding academic freedom which is of transcendent value to all of us and not merely to the teachers involved. That freedom is therefore a special concern of the First Amendment..." *Keyishian v. Board of Regents*, 358 U.S. 589 (1967). In furtherance of these values, policies and purposes, the following regulations are adopted.

### **I. Application**

These regulations shall govern all decisions on the promotion, tenure, retention, and termination of members of the faculty of the School of Law of Pace University (the "Law School"). The tenured and tenure-track members of the Law School faculty are hereinafter referred to collectively as the "Law Faculty." Proposals for changes in these regulations may be made by the Law Faculty and by the Trustees (the "University Trustees") officers and deans of Pace University, but shall be acted upon only following recommendation of the Law Faculty.

### **II. Contracts**

The terms and conditions of every appointment shall be stated in writing and shall be in the possession of both the faculty member and University before an individual's appointment to the Law Faculty is consummated. These procedures shall be incorporated by reference into each faculty member's contract. Each non-

tenured faculty member generally should be given a contract for a term of years sufficient to afford a fair opportunity to demonstrate the qualifications which would entitle such faculty member for consideration for a recommendation for renewal, for promotion in rank or for tenure. The contract of a “Professor of Law for Designated Project or Service” (as described in Part II.D), an Adjunct Faculty Member (as described in Part III.E) or a “Scholar-in-Residence” (as described in Part III.F), shall expressly state that the position is not a tenure-track position.

### **III. Standards for Faculty Rank and Tenure**

#### **A. Professor**

The rank of Professor is to be accorded to persons who have manifestly achieved excellence in (1) teaching; (2) scholarship and research; and (3) contributions to the work of Pace University and the Law School and service to the legal community and public. Scholarship sufficient to evidence such excellence should include substantial publication, such as publication of three (3) articles of high quality in recognized professional journals, or the substantial equivalent, such as a book. The rank normally should be reserved for persons who hold the LL.B. or J.D. degree, are a member of a state bar and who have at least seven (7) years of teaching experience, at least two (2) of those seven (7) years at the Law School.

#### **B. Associate Professor**

The rank of Associate Professor is to be accorded to persons who have substantially demonstrated high quality in (1) teaching, scholarship and research; (2) contributions to the work of Pace University and the Law School; and (3) service to the legal community and public. Scholarship sufficient to evidence such excellence should include publication such as one article of high quality in a recognized professional journal. The rank normally should be reserved for persons holding the LL.B. or J.D. degree, and who have at least three (3) years of teaching experience, at least two (2) of those three (3) years at the Law School.

#### **C. Assistant Professor**

The rank of Assistant Professor is the entry-level rank for members of the Law Faculty. It is to be accorded to persons who hold the LL.B. or J.D. degree, who have an excellent academic record and who offer evidence of potential for accomplishment and the promise of achievement in (1) teaching; (2) scholarship and research; and (3) contributions to the work of Pace University and the Law School and service to the legal community and public.

D. Professor of Law for Designated Project or Service

1. The rank of Professor of Law for Designated Project or Service is to be accorded to persons appointed (pursuant to Article II, Section I.c) of the Constitution of the Law School) who meet the minimum qualifications for an Assistant Professor and who hold a funded contract position with the Law School (in which funds are derived from sources other than University tuition), which funded contract shall pay more than one-half (1/2) of the person's salary.
2. A Professor of Law for Designated Project or Service will be ineligible for tenure (and will not be required to meet tenure requirements) unless appointed to a tenure-track position in accordance with the procedures prescribed herein.
3. A Professor of Law for Designated Project or Service will be expected to teach in the Law School at least one (1) course of at least three (3) credits per year; to serve on faculty committees appropriate to the position; and to perform service to the same extent as other members of the Law Faculty.
4. A Professor of Law for Designated Project or Service will be entitled to use the title of Professor and to participate and vote at faculty meetings. Appointment and reappointment as a Professor of Law for Designated Project or Service will be governed by the same procedures applicable to tenured and tenure-track faculty, including minority recruitment procedures.
5. So long as the funded contract continues to be in effect, an initial appointment as a Professor of Law for Designated Project or Service will be for two (2) years, subject to renewal every two (2) years thereafter, upon recommendation of the Promotion, Tenure and Reappointment Committee (as defined in Part V.A). In any event, the appointment of a Professor of Law for Designated Project or Service will terminate upon the first to occur of (x) termination of his or her funded contract for services or (y) failure of the Promotion, Tenure and Reappointment Committee (as defined in Part V.A.) to recommend renewal of his or her contract. In the event termination is based upon the latter condition, a grace period of one (1) year will be granted to the Professor if the funding continues. The total number of persons holding an appointment as Professor of Law for Designated Project or Service at any one (1) time shall not exceed five (5).

E. Adjunct Faculty

The rank of Adjunct Professor of Law is to be accorded to persons with substantial and acknowledged accomplishments and excellence as judges, legislators, practitioners, scholars, diplomats, government officers or other legal callings, and former full professors of law at Pace University or former full professors at other law schools accredited by the American Bar Association (the “ABA”) who are invited to teach as adjunct faculty members. Adjunct Professors of Law shall be reappointed by the Dean of the Law School (the “Dean”) in accordance with the standards and procedures outlined in these regulations. This rank is not one subject to consideration for promotion or tenure and an Adjunct Professor of Law School shall not be required to meet the tenure requirements.

F. Scholar-in-Residence

The title Scholar-in-Residence is to be accorded to a person appointed (pursuant to Article II, Section 1.c of the Constitution of the Law School) who will enhance public appreciation and recognition of the Law School or understanding of his or her field of expertise. A Scholar-in-Residence should be a person who has achieved prominence as a judge, lawyer, governmental official, or the like, and who wishes to affiliate with the Law School for a period of one (1) or two (2) years. A Scholar-in-Residence will be ineligible for tenure (and will not be required to meet tenure requirements). A Scholar-in-Residence will be expected to engage primarily in scholarly research and writing, with appropriate credit to be given to the Law School. Additionally, a Scholar-in-Residence should communicate regularly with the Law Faculty concerning the Scholar's field to encourage members of the Law Faculty in their work in that or related fields. A Scholar-in-Residence may teach a course or courses in the Law School by agreement between the Scholar-in-Residence and the Dean. The Scholar-in-Residence also may conduct symposia for faculty, students, the bar or the public and help organize a regional or national symposium on a major issue that would attract favorable attention to the Law School.

G. Tenure

1. Tenure normally shall be granted only to persons (a) holding the rank of Professor of Law or Associate Professor of Law; (b) who have demonstrated outstanding performance in teaching, scholarship and research; and (c) who have performed substantial service within and without the University. Scholarship normally should be demonstrated by substantial publication, such as publication of three (3) articles of high quality in recognized professional journals or the substantial equivalent, such as a book.

2. Tenure candidates should have (a) made recognized contributions to Pace University and the Law School; (b) demonstrated service to the legal community and public; and (c) made recognized contributions to a mutually enhancing relationship between students and colleagues.
3. Tenure carries with it the expectation that the person will continue to (a) achieve excellence in teaching; (b) achieve excellence in scholarship and research, including publication of quality law review articles or the equivalent at regular intervals; (c) contribute to the work of Pace University and the Law School; and (d) serve the legal community and the public.

#### H. Reappointment

Reappointment for a year or a term of years normally should be granted only to those who have made reasonable progress toward satisfying the requirements for tenure.

### **IV. Standards of Teaching, Scholarship and Research, and Service**

#### A. Teaching

Appraisal of teaching performance shall be based upon appropriate classroom visitations by other Law Faculty members, by student evaluations, and by a review of the course syllabi and teaching materials prepared by the candidate. Effective teaching comprehends classroom instruction and a broad range of faculty-student relationships, including ready availability of each faculty member to students in the faculty member's office, after class, and otherwise, as in advising and encouraging co-curricular and extra-curricular student activities. Effective teachers also exhibit the following traits: command of the subject matter; familiarity with advances and developments in the area taught; ability to organize materials and present them with force and logic capturing the attention of the students; ability to arouse curiosity on the part of the students toward further and more independent learning; ability to stimulate students in creative work; ability to prepare a sound and effective examination or other analysis of student comprehension; and maintenance of high standards of achievement, of fairness, and sound judgment in grading.



B. Scholarship and Research

Appraisal of accomplishment in scholarship and research shall be based on a close reading of published articles or works and obtaining the professional opinions and independent review of recognized authorities in the field of the published articles or works, whether by members of the Law Faculty or by qualified professionals outside the Law School, if the PTR Committee or any subcommittee thereof decides, in its discretion, to seek outside evaluation of the candidate's scholarly work, as provided in Part V.C.6. The faculty member must demonstrate a commitment to original research and legal scholarship and an ability to produce and publish scholarly work of high quality. The ability to critically analyze, synthesize, and expound sophisticated factual and legal subjects shall be shown. Participation on panels, in conferences and lectureships; preparation of statutes and codes; book reviews; and other evidence of scholastic commitment and recognized ability shall be considered and weighed as such works may merit.

C. Service

The faculty member's record of participation and tasks performed shall serve as the basis for (1) appraisal of the faculty member's demonstrated commitment to collegial faculty decision-making and goodwill and mutual respect among faculty members; (2) appraisal of the contributions which a faculty member makes to the administration, governance and improvement of the Law School; (3) appraisal of the service the faculty member makes to the University, its administration and other faculties; and (4) appraisal of service to the legal community and public. Contributions to Pace University and the Law School include active service on faculty committees; assistance to student societies; special assignments undertaken at the request of the Law Faculty or Dean; regular attendance at meetings of the Law Faculty and its committees; and service on University committees; and representing the Law School in University assignments. Service to the legal community and public includes participation in the work and committees of the Association of American Law Schools, the ABA, other bar associations and other professional or learned societies, civic associations, and agencies of government including the courts, legislatures and administrative and executive agencies. The independent commendations of persons familiar with the service contributions of a faculty member may be sought and considered. Service *pro bono publico*, as well as by appointment or retention as counsel, may be considered and weighed as such work may merit. (AMENDED 4/16/08)

D. Timing of Recommendations

No recommendations for promotions to Associate Professor or to Professor or for tenure shall be made unless the requisite achievement in teaching, scholarship and research and service is evidenced, as defined above. Contributions to the work of Pace University, contributions to the work of the Law School and service to the legal community and public may not be substituted for achievement in teaching and/or scholarship and research, and *vice versa*. These three categories of standards are to be accorded such weight as may be appropriate in the circumstances.

V. **Procedures Governing Decisions as to Promotion, Tenure & Reappointment**

A. Authority to Make Recommendations

The authority to make recommendations to the Dean and University as to promotion, tenure and reappointment of a faculty member shall be vested in a committee chaired by the Dean and consisting of all tenured members of the Law Faculty. This committee is referred to herein as the "Promotion, Tenure and Reappointment Committee," or "PTR Committee," as the case may be. In the case of a member of the PTR Committee, his or her promotion shall be considered only by the other members of the PTR Committee having rank higher than the candidate. (AMENDED September 3, 1980)

B. Time of Consideration

1. The University subscribes to American Association of University Professors Standards, pursuant to which tenure may be granted during a probationary period which shall not exceed seven (7) calendar years, with notification of a decision as to tenure being made in the sixth (6<sup>th</sup>) year. Except in the case of individuals with extraordinary qualifications as a judge, legislator, practitioner, scholar, diplomat or government official, candidates for tenure should have at least five (5) years of law school teaching experience, with at least two (2) of those five (5) years at Pace Law School. In computing years of teaching service, credit shall be given: (a) for all calendar years at the rank of Assistant Professor or higher at Pace University School of Law; and (b) for regular service, not exceeding three (3) calendar years, at the equivalent rank or higher at other law schools accredited by the ABA. A member of the Law Faculty normally will not be considered for a promotion in rank or for tenure until the expiration of at least two (2) years of teaching at the Law School. Where the Appointments Committee recommends that the Law Faculty appoint a professor who has been granted tenure at another ABA-accredited law

school, that candidate for appointment normally should come as a visitor for a year, during which the PTR Committee may decide whether or not to recommend a grant of tenure at Pace, upon the recommendation of the Dean and the University Trustees. The PTR Committee may decide to recommend tenure to the President concurrently with the PTR Committee's adoption of any recommendation of the Faculty Appointments Committee.

2. Any faculty member may request consideration for promotion, tenure or reappointment whenever that faculty member believes he or she has met the standards set forth in these regulations, whether or not the PTR Committee has acted to review such matter and make a recommendation, provided however that no faculty member may request consideration for promotion, tenure or reappointment in the year following denial of reappointment or denial of tenure, if the latter occurs in the year of mandatory consideration for tenure as described in these regulations.
3. Consideration of candidates for promotion in rank may be undertaken apart from tenure decisions and *vice versa*.
4. The PTR Committee shall consider whether or not to recommend reappointment of a non-tenured faculty member more than one (1) year prior to expiration of his or her contract.
5. Any faculty member may request of the Dean that the time periods set forth in these regulations be tolled for the period of time encompassing a leave of absence, or the first two (2) years of care of a newborn child by such faculty member, or for such period of time represented by a faculty member's service as a dean or other administrative law school officer, or for a period, renewable annually, not to exceed two (2) years, occasioned by an emergency of a compelling nature. (AMENDED November 6, 1985)

C. Procedures for Promotion, Tenure and Reappointment Committee (SECTIONS 1, 2, 3, 5, 11 (12) AMENDED 9/3/80; SECTIONS 1, 2, 4, 7 AMENDED 4/16/08)

1. For purposes of undertaking the evaluation and review required by these regulations, the PTR Committee shall designate and appoint subcommittees to (a) make specific inquiries about and to report on the candidate's qualifications; and (b) make a recommendation to the PTR with respect to the candidate's application for promotion, tenure or reappointment.

2. A subcommittee shall consist of at least four persons, of whom one shall be designated convener by the full committee. The selection of subcommittee members shall be made by a random draw, provided, however, that each candidate shall have the ability, by notice to the Associate Dean for Faculty Development, in advance of such draw, to peremptorily strike three (3) members of the PTR Committee from being in the pool from which his or her subcommittee shall be drawn.
3. The Dean or convener of a subcommittee shall give reasonable notice to the faculty member under consideration of his or her opportunity to submit to the committee any materials which the faculty member deems relevant. The faculty member shall have the right to appear before the committee and the committee likewise may, in its discretion, ask the candidate to appear before it.
4. Each member of a candidate's subcommittee shall visit classes being taught by candidates as appropriate, and any member of the PTR Committee also may visit one or more classes. Each such subcommittee or PTR Committee member shall give the candidate reasonable notice that he or she plans to visit a class.
5. The convener of each subcommittee shall compile and distribute to committee members the candidate's resume, all available student evaluations of the candidate's teaching, samples of the candidate's scholarly work, and any other relevant materials.
6. A subcommittee may, in its discretion, seek outside evaluation of the candidate's scholarly work by qualified professionals.
7. Subcommittee Report, Committee Consideration, Communication of Results
  - a. When the subcommittee completes a report, it shall provide a copy of the report to the candidate within a reasonable time prior to the intended distribution to the PTR Committee. The subcommittee shall offer the candidate the opportunity to meet and discuss the report. The candidate can give an oral or e-mail response to the report, and may orally discuss his or her views with PTR Committee members. When the subcommittee distributes the report to the full PTR Committee, the subcommittee must include a copy of any response (in the case of an e-mail) from the candidate and/or a statement of the response (in the case of an oral response), except that the subcommittee need not include a copy or a statement of any response regarding a

mistake of fact that the subcommittee corrects prior to the distribution of the report to the PTR Committee.

- b. If the subcommittee believes that a candidate is not making reasonable progress towards tenure, its report must communicate this explicitly.
  - c. After full consideration of the candidate's teaching, scholarly work and other professional activities, and the findings, reports and recommendations of the subcommittee, the PTR Committee shall vote on the appropriate recommendation to be made. A written report of such recommendation, together with a detailed statement of the reasons therefore, shall be forwarded to the Dean, together with such supporting materials as the committee deems appropriate.
  - d. As soon as practicable after the PTR meeting, the Dean shall communicate to the candidate the final result (e.g., yes or no) of any vote on promotion, tenure or reappointment. The Dean should convey the general contours and substance of the faculty discussion and vote, without revealing information that would tend to associate or attribute specific comments or positions to any particular faculty member.
8. The Dean shall forward such recommendations, reports and materials to the University President, adding also the Dean's own independent recommendations, stated in terms of the standards of teaching, scholarship and research stated above. The University President and Trustees shall act upon the recommendations in accordance with their own procedures.
  9. All written reports of a committee, or subcommittee, shall be available for inspection by the candidate, and maintained by the Dean.
  10. Notice of a decision not to reappoint a non-tenured faculty member shall be given no less than one year prior to the effective date of the termination.
  11. Appeals from a negative decision of the committee of tenured faculty or from a failure of the Dean to join in the recommendation of the committee, shall be made to the University administration following such procedures as the University shall provide, currently

specified in the Faculty Handbook at II.7 [1986 ed.] and as from time to time amended by the University.

D. Procedures for Reappointment of Adjunct Faculty.

1. For purposes of undertaking the periodic evaluation and review of adjunct faculty, which shall be required by these regulations, the Law Faculty shall designate and appoint subcommittees to make specific inquiries and to report to the Dean on the adjunct faculty member's qualifications. The frequency of such reviews will not ordinarily exceed once every two (2) years.
2. A subcommittee shall consist of at least two (2) members of the Law Faculty.
3. The Dean shall give reasonable notice to the adjunct faculty member under consideration of his or her opportunity to submit to the subcommittee any materials that the adjunct faculty member deems relevant.
4. Subcommittee members shall visit classes being taught by adjunct faculty members as appropriate. Each subcommittee member shall give the candidate reasonable notice that he or she plans to visit a class.
5. The Dean shall compile and make available to subcommittee members the adjunct faculty member's resume, all available student evaluations of the candidate's teaching, and any other relevant material.
6. After full consideration of the adjunct faculty member's teaching, the subcommittee shall report, with the appropriate recommendation, to the Dean.

## VI. Clinical Faculty

### A. Faculty Titles

There shall exist at the Law School only those faculty ranks as currently defined in the Constitution of the Law School: Assistant Professor of Law, Associate Professor of Law, Professor of Law and Professor of Law for Designated Project or Service. Generally, there shall be no distinction between or among faculty members whose primary responsibility is to teach traditional classroom courses and seminars, those whose primary responsibility is to teach clinical courses, those whose primary responsibility is to teach in the Legal Analysis and Writing Program (as defined in Part VII) and those whose primary responsibility it is to administer the Law Library. As used herein, the phrase "clinical courses" means in-house clinics, advocacy and other lawyering skills courses.

### B. Appointment, Promotion and Tenure, Generally

The criteria set forth in Part III of these regulations shall apply to all candidates seeking initial appointment, promotion or tenure to a faculty position in which their primary responsibility will be to teach clinical courses. In addition, the special qualifications set forth below shall be required.

### C. Appointment as Assistant Professor of Law

Law Faculty members whose primary responsibility is to teach clinical courses shall be evaluated for initial appointment as Assistant Professor of Law based upon the qualifications set forth in Part III and also on the basis of the following factors:

1. *Clinical Insight* - A demonstrated ability to analyze and reflect upon the planning and decision-making processes of lawyers and to discuss thoughtfully and articulately their own decision-making processes.
2. *Clinical Orientation* - An intellectual as well as practical understanding of the theoretical and empirical problems of teaching law and lawyering skills and a familiarity with the basic premises of clinical methodology.
3. *Communication Skill* - Written and oral advocacy of the highest caliber and, especially in oral advocacy, an ability to adapt quickly to changed circumstances and to respond intelligently and articulately to unanticipated situations.

4. *Experience* - Significant experience using the lawyering skills that the candidate expects to teach and, in the case of a candidate who expects to supervise fieldwork, significant experience with the types of cases and clients that the candidate expects to represent. Experience in supervising, training or orienting new attorneys or student interns is relevant but shall not be required.
5. *Maturity and Practical Wisdom* - Self-confidence, resilience and perspective about their own work that will enable them to accept criticism readily from colleagues and students; insight into the competing and often conflicting obligations of the lawyering role and strategies and techniques for recognizing the conflicts and resolving them; promise of an ability to provide critical feedback to students in a form that students can absorb; a willingness to allow students to share control over their cases; an abiding interest in continuing to learn and develop professionally themselves; and an excitement at assisting others in the process of professional development.
6. *Professional Responsibility and Dedication* - Membership in the bar in good standing; professional activities that indicate an interest in the growth and development of the legal system; industry, diligence and the ability and willingness to invest unconventional hours and extraordinary energy in teaching students; a capacity to derive satisfaction from individual and small group instruction; an acute sensitivity to issues of professional responsibility and ethics and a willingness to engage in serious dialogue about the mission of the legal profession and the responsibilities of individual lawyers; excellence in their own work; and a desire to inspire a like commitment in colleagues and students.

D. Promotion to Associate Professor of Law or Initial Appointment as Associate Professor of Law

Law Faculty members whose primary responsibility is to teach clinical courses shall be evaluated for promotion to Associate Professor of Law or initial appointment as Associate Professor of Law, as the case may be, based upon their satisfaction of the qualifications for initial appointment (as described in Part III), a demonstration of reasonable progress toward satisfying the requirements for tenure and also on the basis of the following factors:

1. *Demonstrated Clinical Teaching Ability* - An ability to define their teaching objectives and identify alternative means for their achievement; an ability to relate theories of the lawyering process



to the development of legal skills; an ability to integrate effectively the various components of clinical teaching (individual supervision and critique, small group discussions, seminars, simulations and fieldwork); a familiarity with the literature on lawyering and legal skills; a concern for the welfare and progress of their students by being reasonably accessible to students outside the formal teaching schedule; an ability to provide students with structured feedback on a continuing basis; an ability to promote the capacity of students to engage in legal reasoning and analysis, to become self-critical and reflective about their experience, to exercise sound professional judgment, and to acquire basic competence in lawyering skills.

2. *Contributions to Clinical Education and to Lawyering Skill Programs at the Law School* - A recognition of the cooperative and collaborative nature of the clinical enterprise; a willingness to consult with colleagues, especially those with less experience, about teaching objectives and methodology; a desire to advance both their own and their colleagues' understanding of clinical methodology and alternative approaches to teaching; and a willingness to accept responsibility commensurate with their rank and experience for program planning and administration.

E. Tenure and Promotion to Professor of Law

Law Faculty members whose primary responsibility is to teach clinical courses shall be evaluated for tenure and promotion to Professor of Law on the basis of their satisfaction of the qualifications for initial appointment (as described in Part III) and promotion (as described in Part III) and also on the basis of the following factors:

1. *Outstanding Clinical Teaching Ability* - An ability to articulate and utilize models of learning as well as theories of lawyering; proficiency at every component of clinical teaching (individual supervision and critique, small group discussions, seminars, simulations and fieldwork); awareness of contemporary developments in clinical methodology and familiarity with the literature on clinical education; responsiveness to students that accords high priority to their requests for individual counseling and feedback; a special talent for providing constructive and supportive criticism in a way that students are able to understand and accept; skill at assessing the need to intervene in an unfolding clinical situation and an ability to supply necessary guidance without stifling student initiative; success at promoting the capacity of their students to engage in legal reasoning and analysis, to become self-critical and reflective about their experience, to exercise sound

professional judgment and to acquire basic competence in lawyering skills.

2. *Substantial Contributions to Clinical Education and to Clinical Programs at the Law School* - An ability and willingness to advance the interrelationship among the various clinical courses at the Law School as well as to assist in integrating the clinical courses into the overall curriculum; participation in developing or refining clinical teaching methodology and creation of teaching materials which can be used by other clinical teachers; a willingness to devote considerable time and energy to long-term planning and a capacity to take responsibility for the design and administration of a clinical course; promise of excellence and national recognition as a clinical teacher.
3. *Scholarship* - In light of the nature of clinical teaching, its extraordinary time demands and the numerous, specialized skills it requires, the nature and quantity of scholarship required of faculty whose primary responsibility is to teach clinical courses shall be tailored to reflect their special interests and focus but shall be measured by common standards of thoroughness, analytic power, creativity and presentation. The scholarship requirement may be satisfied not only by traditional forms of scholarship, but also by written or other permanent works that enrich clinical teaching and by other forms that evolve from involvement in clinical teaching. 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. At least one (1) major work, equivalent in length and complexity to a traditional law review article shall be required. In addition, two (2) other works, or the equivalent, shall be required. Litigation documents shall not be considered except at the specific request of the candidate and then shall be evaluated in the context of the purpose the document served in the litigation in which it was submitted. In the event that the faculty lacks the expertise to evaluate properly a particular work due to its technical or unique nature, efforts shall be made to have the work evaluated by nationally prominent legal educators expert in the particular area.

#### F. Status

Faculty members who have been appointed, promoted or elected to tenure based upon the standards set forth in this Part VI shall have the following rights and responsibilities:

1. Primary responsibility to teach clinical courses and the right to teach traditional classroom and seminar courses if, in the judgment of the Dean, there is a teaching need in the area, the faculty member has demonstrated substantive knowledge in the area and an ability to teach the course, and teaching the course will not have an adverse impact upon the overall clinical program.
2. Sabbaticals and leaves shall be granted on the same basis as for all faculty.
3. Requests for research assistants, research grants, reduced teaching loads for research and the like shall be evaluated on the same basis as for all faculty. However, in light of the greater expectation of traditional scholarship placed upon them, priority shall be given to proposals of equal merit from faculty members whose primary responsibility is to teach traditional classroom and seminar courses.
4. Appointment to and full voting participation on all faculty committees on the same basis as all other full-time faculty members.
5. Voting rights at faculty meetings on the same basis as all other full-time faculty members.

G. Termination

Nothing contained in these regulations shall preclude the Law Faculty from voting to reduce the overall size of the lawyering skills training program at the Law School for budgetary or curricular reasons, thereby effecting a reduction of the number of faculty whose primary responsibility it is to teach clinical courses. As used herein, the phrase "lawyering skills training program" shall include in-house clinics, extern clinics, trial advocacy and trial practice courses, negotiation and counseling courses and other skills-oriented courses that hereafter may be approved by the faculty. In the event that overall size of the lawyering skills training program is reduced, the termination of faculty whose primary responsibility it is to teach clinical courses shall be governed by the same rules and procedures as the termination of faculty generally, except that terminations shall occur in the order of ascending rank and, within rank, in the order of ascending length of service at the Law School. Changes in programmatic needs that do not require a reduction in the number of faculty teaching clinical courses are not sufficient reason to terminate a faculty member who is willing and qualified to fulfill those changed needs.

H. Crossover to Traditional Teaching

A faculty member who has been elected to tenure based upon these standards and who wishes to teach traditional classroom courses and seminars as her or his primary teaching responsibility must make a request in writing to the Dean. Forthwith upon receipt of the request, the Dean shall refer the request to the PTR Committee for its consideration. In considering the request, the PTR Committee shall follow its normal rules, procedures, and standards for evaluating a candidate for traditional promotion, tenure or reappointment, except that it must consider and act upon any such request no later than the semester following its receipt by the Dean.

**VII. Legal Analysis and Writing Faculty**

A. Faculty Titles

There shall exist at the Law School only those faculty ranks as currently defined in the Constitution: Assistant Professor of Law, Associate Professor of Law, Professor of Law and Professor of Law for Designated Project or Service. Generally, there shall be no distinction between or among faculty members whose primary responsibility is to teach traditional classroom courses and seminars, those whose primary responsibility is to teach clinical courses, those whose primary responsibility is to teach in the Legal Analysis and Writing (hereinafter "LAW") Program and those whose primary responsibility it is to administer the Law Library.

B. Reappointment

Law Faculty members whose primary responsibility is to teach in the LAW Program shall be evaluated for reappointment based on a demonstration of reasonable progress toward satisfying the requirements for tenure.

C. Tenure and Promotion

The criteria for tenure and promotion set forth in Part III hereof shall apply to all Law Faculty members whose primary responsibility is to teach in the LAW Program. In addition, the special qualifications set forth below shall be required:

1. *Outstanding LAW Teaching Ability* - An ability to devise writing and research assignments that appropriately challenge students and expand their research and writing skills; an ability to engage students in learning research skills appropriate to a beginning

lawyer; an ability to provide appropriate and useful written and oral comments on students' written work that contain needed information in a constructive manner and that are individualized to the needs of the particular student; skill at diagnosing specific writing weaknesses and an ability to supply necessary guidance without stifling student initiative; a special talent for providing constructive and supportive criticism in a way that students are able to understand and accept; responsiveness to students that accords high priority to their requests for individual counseling and feedback; skill at promoting the capacity of students to engage in legal analysis and reasoning; skill at effectively communicating the methods of legal analysis and reasoning and at assisting students in becoming self-critical and reflective about their analytical and communicative abilities; an ability to teach the skills necessary for effective oral and written advocacy; a flexibility that allows the use varied teaching techniques appropriate to a variety of learning situations; an ability to be responsive to a wide variety of capabilities in teaching, conferencing, and commenting; an ability to create innovative teaching materials that foster educational growth; a talent for integrating into the substantive curriculum the teaching of writing, legal reasoning and analysis, research, oral communication, professional responsibility and an understanding of the lawyering process.

2. *Substantial Contributions to Legal Analysis and Writing Generally and to the Legal Analysis and Writing Program at the Law School* - An ability and willingness to advance the interrelationship and cooperation among the various LAW courses at the Law School as well as to assist in integrating the techniques of LAW teaching into the overall curriculum; participation in developing and refining LAW teaching methodology and creation of teaching materials which can be used by other LAW teachers; a willingness to devote considerable time and energy to long-term planning and a capacity to take responsibility for the design and administration of a LAW course; promise of excellence and national recognition as a LAW teacher.
3. *Scholarship* - In light of the nature of the responsibilities of the teachers in the LAW Program, and its extraordinary time demands, the nature and quantity of scholarship required of faculty whose primary responsibility is to teach in the LAW Program shall be tailored to reflect such time demands but shall be measured by common standards of thoroughness, analytic power, creativity and presentation. The scholarship requirement may be satisfied not only by traditional forms of scholarship, but also by written or other permanent works that enrich LAW teaching and by other

forms that evolve from involvement in LAW teaching. 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. At least one (1) major work, equivalent in length and complexity to a traditional law review article shall be required. In addition, two (2) other works, or the equivalent, shall be required. In the event that the faculty lacks the expertise to evaluate properly a particular work due to its technical or unique nature, efforts shall be made to have the work evaluated by nationally prominent legal educators expert in the particular area.

D. Status

Faculty who have been appointed, promoted or elected to tenure based upon these standards shall have the following rights and responsibilities:

1. Primary responsibility to teach LAW courses and the right to teach traditional classroom and seminar courses if, in the judgment of the Dean, there is a teaching need in the area, the faculty member has demonstrated substantive knowledge in the area and an ability to teach the course, and teaching the course will not have an adverse impact upon the overall LAW program.
2. Sabbaticals and leaves shall be granted on the same basis as for all faculty.
3. Requests for research assistants, research grants, reduced teaching loads for research and the like shall be evaluated on the same basis as for all faculty.
4. Appointment to and full voting participation on all faculty committees on the same basis as all other full-time faculty members.
5. Voting rights at faculty meetings on the same basis as all other full-time faculty members.

E. Termination

Nothing contained in these regulations shall preclude the faculty from voting to reduce the overall size of the LAW program at the Law School for budgetary or curricular reasons, thereby effecting a reduction of the number of faculty whose primary responsibility it is to teach in the LAW

Program. In the event that overall size of the LAW Program is reduced, the termination of faculty whose primary responsibility it is to teach LAW courses shall be governed by the same rules and procedures as the termination of faculty generally, except that terminations shall occur in the order of ascending rank and, within rank, in the order of ascending length of service at the Law School. Changes in programmatic needs that do not require a reduction in the number of faculty teaching LAW courses are not sufficient reason to terminate a faculty member who is willing and qualified to fulfill those changed needs.

F. Crossover to Traditional Teaching

A faculty member who has been elected to tenure based upon these standards and who wishes to teach traditional classroom courses and seminars as her or his primary teaching responsibility must make a request in writing to the Dean. Forthwith upon receipt of the request, the Dean shall refer the request to the PTR Committee for consideration. In considering the request, the PTR Committee shall follow its normal rules, procedures, and standards for evaluating a candidate for traditional tenure, except that it must consider and act upon any such request no later than the semester following its receipt by the Dean.

**VIII. Law Library Director**

A. Faculty Titles

There will exist at the Law School only those faculty ranks as currently defined in the Constitution of the Law School: Assistant Professor of Law, Associate Professor of Law, Professor of Law and Professor of Law for Designated Project or Service. Generally, there shall be no distinction between or among faculty members whose primary responsibility is to teach traditional classroom courses and seminars, those whose primary responsibility is to teach clinical courses, those whose primary responsibility is to teach in the LAW Program, and those whose primary responsibility it is to administer the Law Library.

B. Reappointment

Law Faculty members whose primary responsibility is to administer the Law Library shall be evaluated for reappointment for a year or term of years on a demonstration of reasonable progress toward satisfying the requirements for tenure.

### C. Tenure and Promotion

To the extent they are not inconsistent with other provisions of these regulations, the general criteria for performance in teaching, scholarship, and service that are applicable to professors whose primary responsibility is to teach traditional classroom courses and seminars are applicable to a tenured or tenure-track professor who is also Law Library Director. However, because the major portion of the Law Library Director's time typically is devoted to library administration, his or her professional performance as reflected in the success of the Law Library is to be given substantial weight.

1. *Professional Performance as Law Library Director* – For purposes of assessment of such performance, the following factors are relevant but not exclusive: development and ongoing oversight of library operations that support instruction and faculty, staff, and student research; personnel management, including effective hiring, training, and evaluation of library staff; budget development and management; identification of library problems and promotion of their solution; creative utilization of library space; skillful development and enhancement of the collection; effective use of new technology; interaction with faculty, staff, and students with respect to research needs; alumni relations and development; general librarianship; and administrative skills. In assessing the professional performance of the Law Library Director, the Law School will seek the following information: evaluations by the Dean, the Faculty Library Committee, and the library staff; surveys of library patrons; evaluations of the library by the ABA and other accrediting groups. In addition, the Law School may retain an experienced academic law librarian as a consultant to evaluate the Law Library Director's performance and submit a written report.
2. *Teaching* – If the Law Library Director is assigned to teach any course or seminar, his or her teaching shall be evaluated in the same manner as other faculty members' teaching.
3. *Scholarship* – The traditional scholarly obligation of faculty is such that an applicant for Law Library tenure shall have completed substantial publications, such as three (3) articles of high quality in recognized professional journals, or the substantial equivalent, such as a book. However, the Law Library Director's day-to-day, primary responsibility is to provide high-quality service in an efficiently run law library. Accordingly, the expectation of scholarly accomplishment for the tenure-track faculty member who is also the Law Library Director will be that



the professor complete one (1) traditional and high quality article in a recognized professional journal, and two (2) other articles of high quality that may, at the applicant's election, be devoted to themes in library science, information technology, or such other subjects as pertain to the field of legal information and access to it, including critical, analytical bibliographies on a legal topic or analytical research guides on a legal topic. Regarding such articles or submissions as may be devoted to such nontraditional themes, but which treat subjects of relevance to library science, the articles or submissions will be expected to achieve the level of quality, theoretical development, and scholarly contribution as would be expected of a traditional law review article submitted in a traditional application for tenure.

4. *Service* – Participation in nationally or regionally prominent library groups shall be taken into account with respect to the service requirement.

#### D. Status

A faculty member who has been appointed or elected to tenure based upon these standards shall have the following rights and responsibilities, so long as the faculty member is the Law Library Director:

1. Sabbaticals and leaves shall be granted subject to the operational needs of the Law Library.
2. Requests for research assistants, research grants, reduced teaching loads for research and the like shall be evaluated on the same basis as for all faculty.
3. Appointment to and full voting participation on all faculty committees on the same basis as all other full-time faculty members.
4. Voting rights at faculty meetings on the same basis as all other full-time faculty members.

#### E. Change of Status

The position of the Law Library Director is an administrative position, appointed by the Dean. The Law Library Director may be removed by the Dean for any reason, unless the Law Library Director has achieved tenure as Law Library Director, as provided in Part VIII.C. A Law Library Director who has been granted tenure as Director may not be removed from the position, except as provided in these regulations. The

grant of tenure as Law Library Director does not carry with it the grant of tenure as a member of the faculty whose primary responsibility is to teach traditional classroom courses and seminars, although nothing herein prohibits a Law Library Director from teaching one or more courses. A tenured Law Library Director who wishes to resign from that position, or an non-tenured Law Library Director who resigns or is removed from the position by the Dean, may apply for tenure or tenure-track status as a member of the faculty whose primary responsibility is to teach traditional classroom courses and seminars. In order to initiate this change of status, a Law Library Director may request in writing to the Dean an appointment as a member of the full-time faculty whose primary responsibility is to teach traditional classroom courses and seminars of the Law School. Forthwith upon receipt of the request, the Dean shall refer the request to the faculty for consideration, and then to the PTR Committee for a tenure or reappointment decision. In considering the request, the PTR Committee shall follow its normal rules, procedures, and standards for evaluating a candidate for traditional tenure, except that it must consider and act upon any such request no later than the semester following its receipt by the Dean.

## **IX. Standards and Procedures for Termination of a Faculty Member for Cause**

### **A. Tenured Faculty Members**

Once tenure is acquired, a contract of continuing employment exists which may be terminated only for adequate cause, except in the case of retirement for age, or under extraordinary circumstances because of financial exigencies. In cases for termination for cause of a continuous appointment, or where facts may be in dispute, the affected Faculty member shall be informed in writing of any charges or facts and shall have the right to both the Informal and Formal procedures approved by the Committee on Academic Freedom and Tenure of the Association of American Law Schools (December 27, 1967), set forth in the Model Code of Procedure for Academic Freedom and Tenure, 21 J.L. EDUCATION 222-234 (1968), and incorporated herein by reference. Faculty members having the right to appointment on a continuous basis who are dismissed for reasons not involving moral turpitude shall receive their salaries for at least one (1) year from the date of notification of dismissal, whether or not they are continued in their duties at the institution. Termination of a continuous appointment because of financial exigency shall be demonstrably bona fide.

B. Non-Tenured Faculty members

Termination for cause may take place whenever cause is found. Review procedures shall be the same as those followed in determining reappointment, as set forth in Part V.C.

C. Suspension

Suspension of a faculty member during the term of his or her contract, or of a tenured faculty member at any time, is justified only if immediate harm to such faculty member or others is threatened. Any such suspension should be with salary.

**X. Faculty with Administrative Posts**

Tenure may be granted only to a Professor or an Associate Professor, and not to an Assistant Professor, Adjunct Professor or Professor of Law for Designated Project or Service. Persons who hold concurrent faculty and administrative appointments may obtain tenure or promotions only in their faculty capacities. Administrative rank is not subject to these regulations, being a matter for the Dean to determine with respect to each administrative or decanal position. The regular faculty member who accepts an administrative position retains academic rank and tenure if awarded previously. Administrators are encouraged to continue teaching, writing, and research, and service contributions to the extent possible.

**XI. Construction and Interpretation**

In accordance with ABA Standard 205, these regulations provide that the Dean and faculty shall have the responsibility for formulating and administering matters of retention, promotion and tenure. Any matter of construction or interpretation of these regulations shall be submitted to the Law Faculty for a ruling on meaning.

In accordance with Association of American Law Schools' Bylaws (AALS Handbook, 1994) in Section 6-6(c), these regulations provide that the Law Faculty shall exercise substantial control over faculty appointments or changes in faculty status, including promotions, tenure designations, and renewal or termination of term appointments. Except in rare cases and for compelling reasons, no faculty appointment or change in faculty status should be made over the expressed opposition of the Law Faculty, acting as a whole or by a representative portion such as one of the committees (excluding subcommittees) specified in these regulations.

Interpretation of these regulations shall be in accord with the plain meaning of all terms and with reference to the commentary and interpretive decisions where appropriate of the American Association of University Professors, the ABA and the Association of American Law Schools.

## **XII. Procedure for Amendment of These Rules**

These regulations shall constitute a part of the Constitution of the Law School and may be amended or repealed pursuant to Article VIII of the Constitution of the Law School.