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PART I

STANDARDS AND PROCEDURES FOR REAPPOINTMENT, PROMOTION, TENURE, AND DISMISSAL
(Approved by the Faculty at its meeting of 5/1/07; Revised (highlighted) and Approved by the Board of Trustees at its meeting of 12/14/07)

I. INTRODUCTION

As members of a law school faculty, we are committed to our continuing professional growth and development. To assist us in that process, evaluations for reappointment, promotion, and tenure are necessary. They help us continue to progress as professionals, and they advance the law school in its pursuit of excellence.

A law professor should continue to develop teaching skills and scholarship over an entire career. To determine whether a faculty member is meeting, and is likely to continue to meet, these primary expectations of professional development, evaluations for reappointment, promotion, and tenure will be conducted according to the following standards and procedures.

II. PROCEDURES FOR PROVIDING SUPPORT AND FEEDBACK TO TENURE TRACK MEMBERS OF THE FACULTY: THE FACULTY ANNUAL REVIEW (FAR)

An important part of the promotion and tenure process involves encouraging and facilitating the professional development of each untenured member of the tenure track faculty. The Faculty Annual Review (FAR) engages the faculty in ongoing support and review of tenure track faculty members during those years in which the tenure track member is not being considered for promotion or tenure. FAR also reflects the commitment of the faculty to the maintenance of high standards in implementing the educational mission of the law school.

A. Purpose of FAR

The purpose of the Faculty Annual Review (FAR) is twofold. For the untenured faculty member, FAR is intended to provide the faculty member with: 1) supportive guidance and direction toward the successful completion of the promotion and tenure process; and 2) constructive feedback on her or his progress toward meeting the standards for promotion and tenure. Second, FAR will also: 1) familiarize the faculty with the teaching, scholarship and service goals of each tenure track faculty member; 2) document the steps taken by the tenure track faculty member towards satisfying the goals, during the previous two academic semesters; and 3) clarify the tenure track faculty member’s plans for the upcoming two academic semesters. FAR is not intended as an evaluation of the untenured faculty member’s progress in meeting the promotion and tenure standards.
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B. Review of and Support for Tenure Track Faculty Member's Teaching and Service

In order to achieve the purposes of FAR, each untenured member of the tenure track faculty will be assigned a tenured member of the faculty as a Faculty Annual Advisor (FAA) prior to July 1st of the academic year:

1. Selection of the Faculty Annual Advisor (FAA)

The Chair of the Promotion and Tenure Committee in consultation with the Associate Dean for Academic Affairs and with the untenured faculty member will appoint a Faculty Annual Advisor (FAA) for each untenured faculty member. FAAs must be tenured and should be chosen based on ability to mentor rather than area of teaching. Each untenured faculty member should have a different FAA each year to allow for multiple perspectives.

2. Duties of the Faculty Annual Advisor (FAA)

At the request of the untenured faculty member, the FAA will attend classes taught by the untenured faculty member, review his or her student evaluations and discuss his or her teaching with others in the untenured faculty member's field. The FAA shall meet with the untenured faculty member at least once each semester to discuss the faculty member's teaching and service goals and to counsel the faculty member.

For newly hired members of the tenure track faculty, the FAA will work with the Associate Dean of Academic Affairs to orient the new faculty member to teaching at Albany Law School.

3. Co-authored Annual Report on Teaching and Service

The FAA and the untenured faculty member will co-author a concise report concerning the untenured faculty member's teaching and service, and provide the report to the Promotion and Tenure Committee by April 1. The report will: 1) familiarize the faculty with the teaching, scholarship and service goals of each untenured member of the tenure track faculty; 2) document the steps taken by the tenure track faculty member towards satisfying the goals during the previous two academic semesters; and 3) clarify the tenure track faculty member's plans for the upcoming two academic semesters.

The co-authored report shall not include, nor be interpreted as providing the basis for, an analysis or evaluation of the untenured faculty member's ability to meet the standards for promotion and tenure. No statements made by any faculty
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member including FAAs, will control the Promotion and Tenure Committee’s recommendation as to promotion or tenure.

C. Review of and Support for Tenure Track Faculty Member’s Scholarship

The Associate Dean for Research and Scholarship will review the research and scholarship of the untenured faculty member, prepare a concise report concerning the untenured faculty member's scholarship, and provide it to the untenured faculty member no later than March 20 of the academic year of review. The Associate Dean for Research and Scholarship will provide the report to the Promotion and Tenure Committee by April 1, and the untenured faculty member may provide written comments or response by that same date.

D. Evaluation By Other Faculty Members

All members of the Promotion and Tenure Committee are permitted to make their own annual evaluations of the teaching, scholarly and service development of each untenured member of the tenure track faculty, to share their evaluations with the faculty member, and to provide assessments to the Promotion and Tenure Committee. The Chair of the Promotion and Tenure Committee will communicate the reports to the untenured faculty member and to the Dean.

E. Recommendation Concerning Reappointment

Except for years in which the faculty member is a candidate for promotion or tenure, the Annual Review and Report process will not ordinarily result in any recommendation regarding the faculty member’s reappointment or future status, although at the request of the Dean, the Chair of the Promotion and Tenure Committee, or the faculty member, such a recommendation will be made.

Once the request for recommendation is made, the Chair of the Promotion and Tenure Committee, the FAA and the Associate Dean for Research and Scholarship will, as a subcommittee, make a recommendation regarding the faculty member’s reappointment. Such recommendation will be based on the tenure track faculty member’s progress toward meeting the promotion and tenure standards. The subcommittee shall provide a written report to the Promotion and Tenure Committee regarding the faculty member’s reappointment. Any other person may make a recommendation to the Dean and/or the Promotion and Tenure Committee regarding the faculty member’s reappointment, and such recommendations will be considered.

F. Interpretation

Any reference in this document to a person holding a particular position, or to a particular committee, shall be interpreted as a reference to the person holding that position, or to the committee as constituted, at the time at which he, she or it is required or permitted to act. If, at any such time, there is no such position or committee, then the reference shall be interpreted as
meaning the person or body identified by the senior member of the tenured faculty as the successor to such position or committee or, if there is no such successor, the person or body designated by the senior member of the tenured faculty to fulfill such responsibility.

III. REAPPOINTMENT AND TERMINAL YEAR

Except in unusual circumstances, a tenure-track faculty member shall be employed pursuant to a one-year contract. After initial appointment, one-year contracts shall be offered by the Dean to such faculty member, unless (1) the Dean and a majority of the tenured faculty concur that the faculty member is not making satisfactory progress towards fulfillment of the criteria for promotion and tenure; or (2) the financial exigencies of Albany Law School require termination of employment of such faculty member. In such event, a contract shall not be offered, except to the extent required by the then applicable rules of the American Bar Association and the Association of American Law Schools.

A tenure-track faculty member who has been rejected by the tenured faculty or the Board of Trustees for promotion or tenure shall be offered a one-year non-renewable contract for the academic year immediately following the academic year in which the denial of promotion or tenure occurred, after which the faculty member's position with the law school will be terminated.

IV. STANDARDS FOR EVALUATION FOR PROMOTION AND TENURE

Promotion and tenure decisions require a review of the total academic performance of the candidate. Three criteria are used to evaluate the candidate: teaching, scholarship, and service.

In addition, the standards of conduct expected of members of the legal profession apply equally to teachers of the law, as well as additional requirements, due to the unique nature of the law teacher’s position in influencing future members of the bar. Professional misconduct which makes the faculty member unfit for association with students, as in the case of a tenured faculty member under Part VII, can result in the denial of promotion or tenure, provided that the candidate shall have been given a full and fair opportunity to respond in writing to any allegation of such professional misconduct.

A. Teaching

Teaching is central to the Law School’s mission. Consequently, it is essential that a candidate demonstrate a capacity and a commitment to be an effective teacher in the classroom and be interested and willing to spend significant amounts of time outside of class working with students. Demonstrated teaching effectiveness is a necessary condition of the conferral of promotion or tenure.

For promotion to Associate Professor, the candidate must demonstrate sustained competence as a
teacher and show potential to achieve the standard for tenure. For award of tenure, the candidate must demonstrate excellence in teaching. For promotion to full Professor, the candidate must demonstrate a consistent record of excellence in teaching.

Different individuals are effective teachers for different reasons. The following factors, however, shall be considered in evaluating a candidate’s teaching:

1. degree of preparation for class, and thoughtful and creative organization of both individual class sessions and overall course content;
2. breadth and depth of relevant knowledge, and depth of inquiry into the subject matter and the values and assumptions that underpin the subject matter;
3. enthusiasm for teaching and for interaction with students, and ability to stimulate students to learn and to seek further knowledge independently;
4. use of a variety of teaching methods including active learning methods, implementation of writing across the curriculum, and appropriate use of technology;
5. capacity to communicate, and to direct student work inside and outside the classroom;
6. accessibility to students, and demonstrated interest and involvement in students’ welfare;
7. ability to devise methods of determining a student’s progress and achievement appropriate to the courses taught, and preparation of a sound and effective examination or other method of evaluation; and
8. maintenance of a high standard of fairness and sound judgment in grading.

Circumstances such as teaching load, number of student contact hours, class size, subject matter, teaching methodologies, preparation of teaching materials, number of times a particular course has been taught, number of new courses and variety of courses undertaken, and years of experience will be considered in the evaluation. Each promotion or tenure subcommittee is to ensure that its report develops all relevant information concerning the overall teaching effectiveness of a candidate during the relevant period and the candidate’s demonstrated potential for teaching effectiveness in the future.

B. Scholarship

Scholarship is central to the Law School’s mission. Scholarship is important to advance knowledge, to improve teaching, and to promote the public service mission of the Law School. Consequently, it is essential that a candidate demonstrate a capacity for and a commitment to scholarship. Demonstrated scholarly effectiveness is a necessary condition of the conferral of promotion or tenure. Scholarship is an important part of every law professor’s professional activity throughout an entire career. Different individuals are effective scholars for different reasons.
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For promotion to Associate Professor, the candidate must demonstrate competence as a scholar and show potential to achieve the standard for tenure. For award of tenure, the candidate must demonstrate excellence in scholarship. For promotion to full Professor, the candidate must demonstrate continued excellence in scholarship.

1. Quantitative Standards

As part of the application for promotion to Associate Professor, the candidate must submit at least one scholarly work of high quality that has been published or accepted for publication, personally produced since joining the faculty.

As part of the application for the award of tenure, the candidate must submit at least three published scholarly works of high quality, all personally produced since joining the faculty. The works submitted for award of tenure may include works previously submitted in application for promotion to Associate Professor.

As part of the application for promotion to full Professor, the candidate must submit at least two published scholarly works of high quality beyond those three published works required to be submitted for award of tenure, all personally produced since joining the faculty.

As used in this context, a scholarly work typically will mean a work which reflects originality, creativity, and intellectual inquiry, and that advances the knowledge and understanding of legal matters of local, state, national, or international significance. It must be published in a law journal of an ABA-approved law school, as a chapter in a book, as a book, in a peer-reviewed academic journal, or in a peer-reviewed academic monograph. Co-authored works will be considered to the extent that authorship can be attributed to the candidate.

Among the works not considered within the minimum necessary for promotion or tenure (except to the extent that they satisfy one or more requirements IV.B.2.a.ii-v and IV.B.2.b below) are course books, contributions to annual surveys of the law, updates or revisions to previously published works, articles in association or committee journals and newsletters, case notes, student comments, CLE outlines, legal documents or filings, simulation exercises, video- or audio-tapes, and computer software. That such materials are not considered towards the minimum quantitative requirement does not indicate that such materials are necessarily not valuable in their own right or that they are necessarily not contributions to legal scholarship.
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2. Qualitative Standards

While quantity is a necessary requirement for promotion or tenure, the quality of a candidate's work is the most important factor in evaluating a candidate's scholarship in connection with promotion or tenure decisions. Different individuals are effective scholars for different reasons.

a. Research Methodology

In judging quality the faculty will consider the nature of the research methodology employed with respect to the following five categories, with the most creditable scholarly products falling within one or more of the analytic categories (ii)-(v) (which categories are not ranked in terms of their weight). Simply falling within a category does not demonstrate high quality within that category.

i. pure description—an explication of what cases, statutes, regulations, or a body of literature say. This category includes both a summary simplifying a larger quantity of material and a clarification of more complicated raw material. It is unlikely that a faculty member will be awarded tenure on the basis of scholarship that is purely descriptive.

ii. analysis—this category includes commentary which adds significant identification of inconsistencies and the reconciliation of apparent inconsistencies, and insights of the author not coming directly out of the material;

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

iv. original synthesis or solution—this category refers to the bringing together or presentation of material in a 'new way' by developing a new organizing principle or frame of reference, or to the presentation and defense of a new solution to a problem through a proposed statute, regulation, or legal theory;

v. empirical or experimental—an empirical or experimental study that supplements a research product which falls within categories ii-iv.
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b. Quality of Execution of Research

In judging quality of scholarship the faculty also will consider how well the candidate executed her or his research methodology and how demanding the research task was. The following indicia are measures of these aspects of quality.

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; and
vi. actual or likely impact of the work.

Each promotion or tenure subcommittee is to ensure that its report develops all relevant information concerning the candidate's scholarship during the relevant period and the candidate's demonstrated potential for scholarship in the future.

C. Service

A faculty member should be involved in the affairs of the law school, the legal profession, and the community to a degree commensurate with the demands of teaching and scholarship.

A faculty member is expected to serve the law school by attending faculty and committee meetings, performing committee assignments within the school, assisting and advising individual students and student organizations, helping to improve the quality of the academic environment, and assuming responsibilities for improving the law school.

A faculty member is also expected to contribute publicly and professionally to the legal profession and the community. When we consider activities outside the Law School, we will look only at those which draw on professional legal ability. These may be in connection with a bar association or other professional, governmental, or community organization. They may also be pro bono representation, amicus brief preparation, or similar service. Organizational membership itself or peripheral involvement will not be significant in the assessment.

The quality of the service and the depth of involvement are the primary important factors for measuring such activities in relation to promotion and tenure. Failure to perform such duties and responsibilities can result in the denial of promotion or tenure.
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V. ELIGIBILITY FOR PROMOTION OR TENURE

A. Normal Progression of Rank

Full-time members of the teaching faculty at Albany Law School shall hold the rank of Professor, Associate Professor, or Assistant Professor. Unless appointment is made pursuant to V.B, appointment to the full-time faculty shall be at the rank of Assistant Professor.

1. Associate Professor

Prior to May 1 of his or her third year as Assistant Professor at Albany Law School, a candidate shall be considered for recommendation by the tenured faculty for promotion to the rank of Associate Professor, and the candidate shall be notified as to the result of the consideration by that date. Recommendations by the Promotion and Tenure Committee and the Dean will be forwarded to the Board of Trustees for action at the next regularly scheduled Board meeting. A candidate may defer consideration of promotion one time for one year upon majority vote of the entire tenured faculty.

a. Tenure

Prior to May 1 of his or her third year as Associate Professor at Albany Law School, a candidate shall be considered for recommendation by the tenured faculty for tenure, and the candidate shall be notified as to the result of the consideration by that date. The decision to grant tenure is a predictive judgment that a faculty member will be an effective teacher, a productive scholar, and participating member of the professional community throughout his or her career. Recommendations by the Promotion and Tenure Committee and the Dean will be forwarded to the Board of Trustees for action at the next regularly scheduled Board meeting.

At the candidate’s option, the candidate may apply for tenure one year early or may delay consideration for tenure by one year. If applying for tenure one year early, the candidate shall notify the Chair of the Tenure and Promotion Committee by December 1 of the candidate’s second year as Associate Professor at Albany Law School of the candidate’s election to be considered one year early. If delaying tenure consideration for one year, the candidate shall notify the Chair of the Tenure and Promotion Committee by December 1 of the candidate’s third year as Associate Professor at Albany Law School of the candidate’s election to be considered one year late.
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2. **Professor**

An Associate Professor of Law may apply for promotion to full Professor of Law during or any time after his or her third year as Associate Professor at Albany Law School. The candidate shall notify the Chair of the Tenure and Promotion Committee by December 1 that he or she is seeking promotion to Professor that academic year. Prior to May 1 of the academic year, the candidate shall be considered for recommendation by tenured faculty members who hold the rank of Professor for promotion to the rank of Professor, and the candidate shall be notified as to the result of the consideration by that date. Recommendations by the tenured Professors and the Dean will be forwarded to the Board of Trustees for action at the next regularly scheduled Board meeting.

A scholarly leave of absence for one year or less will count as part of the period in rank of Assistant and Associate Professor, unless the candidate and the Dean of Albany Law School agree otherwise in writing at the time such leave is granted.

**B. Exceptions to Normal Progression of Rank**

1. Persons possessing extraordinary experience or qualifications may be appointed to the faculty at any rank or promoted to any rank or granted tenure by receiving a two-thirds majority recommendation of the entire tenured faculty (or, in the case of promotion to Professor, a two-thirds majority recommendation of tenured faculty holding the rank of Professor), the concurring recommendation of the Dean, and approval by the Board of Trustees. Appointment at any rank other than full Professor with tenure shall include a designation of the time periods for promotion and tenure and identification of which past publications shall count towards the quantitative requirements for such promotion and tenure.

2. A term of appointment of a new faculty member hire for Albany Law School may provide that he or she will not be considered for tenure until the fourth (or any specified earlier) year of service at Albany Law School. Any such term of appointment shall be furnished in writing to such faculty member at the time of appointment.

**VI. PROCEDURE FOR PROMOTION AND TENURE**

**A. In General**

1. Each candidate will be advised of the time when decisions affecting promotion and tenure are ordinarily made, and will be given the
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opportunity to submit material believed to be helpful to an adequate consideration of the candidate's qualifications.

2. Promotion to Associate Professor and the granting of tenure shall result only with approval of the Board of Trustees on an affirmative recommendation by a majority of the entire tenured faculty. Promotion to Professor shall result only with approval of the Board of Trustees on an affirmative recommendation by a majority of all tenured faculty holding the rank of Professor. When there has been an affirmative recommendation by the appropriate majority, the Dean may submit a separate recommendation to the Board of Trustees.

3. In considering candidates for promotion to Associate Professor and tenure the tenured faculty shall constitute the Faculty Committee on Promotion and Tenure. In considering candidates for promotion to Professor, the tenured faculty holding the rank of Professor shall constitute the Faculty Committee on Promotion and Tenure. At all meetings of either such Committee there shall be a quorum present throughout the meeting of at least three-quarters of the eligible tenured faculty. The senior faculty member present shall act as Chair of the Committee. Only those members of the tenured faculty present at the meeting may vote. A tenured faculty member on leave of absence shall be accorded notice of each meeting, and if, and only if, present at the meeting may vote and be counted for quorum purposes and as a member of the tenured faculty for purposes of determining the size of the entire tenured faculty. The result of the Committee's deliberations shall be sent to the Dean in writing.

4. If the Faculty Committee on Promotion and Tenure fails to recommend promotion or tenure for a candidate being considered at a meeting of the Committee, the candidate will be informed of the decision of the Committee in writing by the Chair. The candidate may request reconsideration by the Committee.

B. Responsibilities of the Candidate

The faculty member who is a candidate for promotion or tenure should prepare and submit:

1. a curriculum vitae;

2. information on the candidate's teaching effectiveness, including, potentially, a list of courses taught, syllabi, teaching materials prepared by the candidate, final examinations and exercises and any solutions or analysis prepared by the candidate, and a list of any activities undertaken by the candidate for continued growth as a teacher;
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3. information on the candidate's achievements as a legal scholar, including copies of scholarly works, a concise statement about each item of scholarship which outlines its goals and/or achievements, a list of scholarly presentations, any other evidence of scholarly activity, and an outline of research and scholarship plans for the next three to five years;

4. information on the candidate's service to the law school, the legal profession, and the community; and

5. any additional information that the candidate deems relevant to the promotion or tenure decision.

The candidate is invited to nominate two or more experts in her or his field(s) for assessment of the candidate's scholarly work. Because others in the candidate's field may also be contacted, the candidate is invited to identify those whom he or she does not want to be approached for evaluation.

C. Promotion and Tenure Committee Process

During evaluation for promotion or tenure, members of the Promotion and Tenure Committee are expected to visit the classes of the candidate to assess teaching effectiveness and to review the candidate's scholarly works.

The Chair of the Promotion and Tenure Committee and the most recent tenured recipients of the Faculty Awards for Excellence in Teaching and Scholarship shall appoint a three-person subcommittee for each candidate. The subcommittee will have the responsibility for a more in-depth evaluation and to prepare a preliminary report for the Promotion and Tenure Committee. The subcommittee shall assemble a file of evidence concerning the candidate's teaching, scholarship, and service, and prepare and submit a written preliminary report to the Promotion and Tenure Committee evaluating the evidence in light of the applicable promotion or tenure standards.

Each member of the subcommittee is responsible for independently reviewing the candidate's teaching and scholarship. As part of the subcommittee's evaluation of the candidate's teaching, student course evaluations, including written comments by students, will be considered.

Where the candidate is under consideration for award of tenure, the subcommittee shall arrange for two or more outside expert evaluators in the candidate's field(s) to assess the candidate's scholarly work. The subcommittee shall strive to use at least one outside expert identified by the candidate and at least one outside expert not selected by the candidate. The outside evaluators shall be provided with the scholarship standards for promotion and tenure. The outside evaluation shall include, wherever possible, multiple evaluations of each of the
candidate's scholarly endeavors and at least one evaluation of the candidate's overall scholarly production. The evaluators' reports should assess the original contribution of the works to scholarship in their field(s) and to the advancement and understanding of the law. Where the candidate is under consideration for promotion, the subcommittee may arrange for one or more outside expert evaluator in the candidate's field(s) to assess the candidate's scholarly work. Copies of outside evaluations should be given to the candidate promptly as they are received by the subcommittee.

The subcommittee will submit a draft of its preliminary report to the candidate no later than March 15 of the academic year of the candidate's consideration. The candidate may prepare a written response to the subcommittee’s report, and the subcommittee’s preliminary report together with the candidate’s response will be submitted to the Promotion and Tenure Committee by April 1 of the academic year of the candidate’s consideration. The Promotion and Tenure Committee will submit a written report and recommendation concerning the grant or denial of promotion or tenure to the Dean by April 20 of the academic year of the candidate’s consideration.

The candidate's application for promotion and/or tenure will be evaluated solely on the standards in this document, regardless of any prior discussions with, statements made by, or promises made by any member of the faculty or any other person.

D. Confidentiality

Except as provided in this paragraph, or as required by the Law School or law or other legal requirement, the information obtained by, and the written reports, written assessments, and oral deliberations of, any subcommittee or the Promotion and Tenure Committee will not be released to any person who is not a member of Promotion and Tenure Committee. At the request of the candidate, the Promotion and Tenure Committee may, at its option, release any or all of the information and reports unless such release would violate Law School policy or law or other legal requirement. The Promotion and Tenure Committee will release any information, reports and assessments necessary for the promotion or tenure process. The candidate will be given a copy of any report made by the Promotion and Tenure Committee. To the extent permitted by Law School policy, the candidate will be given a copy of any written information or assessment regarding her or him unless the person who provided the information or assessment requested that the information or assessment remain confidential. All deliberations of a subcommittee or the Promotion and Tenure Committee will remain confidential.

VII. DISMISSAL OF TENURED FACULTY

A tenured faculty member may be dismissed only for adequate cause or financial exigency. Adequate cause is incompetency in the performance of faculty obligations, neglect or refusal of performance of faculty obligations, mental or physical incapacity to perform faculty obligations, professional misconduct which makes the faculty member unfit for association
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with students, or the financial exigencies of Albany Law School.

Upon a recommendation of the tenured faculty or the Board of Trustees that a member of the tenured faculty be dismissed, a panel shall be convened to determine whether adequate cause exists for dismissal. If the recommendation is made by the Board of Trustees, the panel shall consist of three members of the tenured faculty, selected by that body, and two members of the Board of Trustees. If the recommendation is made by the tenured faculty, the panel shall consist of two members of the tenured faculty, selected by that body, and three members of the Board of Trustees.

The faculty member shall be entitled to a hearing and shall be informed in writing, prior to the hearing, of the cause for dismissal. The faculty member shall have the opportunity to be heard and to present, hear, and examine all evidence relevant to the cause for dismissal. He or she shall be permitted to have an advisor of his or her own choosing who may act as counsel. The faculty member or his or her counsel shall have the right to cross-examine witnesses against the faculty member. The panel holding such hearing shall take proof of the facts. The determination of the panel shall be final.

Any action to dismiss a tenured faculty member on the basis of cause or financial exigency shall be taken pursuant to procedures which are consistent with principles of due process and the applicable rules of the American Bar Association and the Association of American Law Schools. Notice of dismissal notice shall be no less than is required by the applicable rules of the American Bar Association and the Association of American Law Schools.

VIII. EFFECTIVE DATE AND SCOPE

(a) These standards and procedures shall apply to non-clinical, non-lawyering faculty whose appointment to the tenure track faculty is effective after September 1, 2007. Faculty whose appointment to the tenure track faculty is effective on or before September 1, 2007 shall be subject to the standards and procedures in effect immediately prior to adoption of these standards and procedures.

(b) In the case of any member of the clinical faculty, these standards shall not apply. Clinical faculty shall be subject to the separate promotion and tenure standards adopted for clinical faculty, as amended from time to time, to the extent provided therein.

(c) In the case of any member of the lawyering faculty, these standards shall not apply. Lawyering faculty shall be subject to such separate promotion and tenure standards (if any) as are adopted in the future for lawyering faculty, as amended from time to time, to the extent provided therein.
APPENDIX B

STANDARDS FOR CLINICAL TENURE AND PROMOTION

A. TENURE

The granting of clinical tenure involves a review of the total professional performance of the candidate. Five criteria are employed in evaluating the record of the candidate's performance:

(a) professional integrity
(b) teaching of high quality
(c) contribution to legal scholarship
(d) contribution to the development and improvement of the Law School, and
(e) service to the profession and the public

1. Professional Integrity

a. Purpose of Requirement

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

b. Factors Measuring Professional Integrity

Factors involved in the professional integrity of a faculty member 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 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. No person shall be granted tenure unless there is substantial evidence that person will add significant strength to the
b. Factors Measuring Teaching

Effective clinical teaching ability may be evidenced by:

(i) Using and integrating various clinical methods (e.g., simulations, live case experiences, externships and seminars) to provide an understanding of the legal process and lawyering skills:

(ii) Providing students models of professional conduct through professional advocacy and client representation;

(iii) Fostering a successful learning environment, including accessibility to students, an interest and involvement in student development and welfare, and stimulation and inspiration of students in their clinical studies;

(iv) Assisting students to analyze, prepare and perform the lawyering skills necessary to appropriately manage a case, such as client interviewing and counseling; negotiation with adverse parties; and the conduct of trials and hearings;

(v) Assisting students to integrate their theoretical knowledge of law into the analysis of actual cases or problems encountered in practice;

(vi) Assisting students to develop strategies for using procedural and evidentiary techniques in case preparation and presentation;

(vii) Recognizing the ethical and moral problems faced by students in a representative capacity, and using those problems as an opportunity to help students explore ideas about professional responsibility;

(viii) Teaching students the planning and preparation skills that will enhance their abilities to deal with the uncertainties likely to occur in the performance of professional duties and responsibilities;

(ix) Effectively conducting individual student conferences, including review, evaluation and feedback of student work to assist the student in furthering his or her individual abilities. Due to the need for direct student supervision, Clinical faculty will spend a great deal more time with individual students than do faculty teaching non-clinical course;

(x) Administering the clinical program, where it is part of the instructor’s assigned duties
3. Contribution to Legal Scholarship

a. **Purpose of Requirement**

Evidence of an active and intellectually curious mind is an important indication that the candidate will continue to function as a knowledgeable, stimulating and effective teacher. Significant scholarship requires a capacity for self-initiative and is an indication that the candidate will continue effectively to engage in creative work of high quality and significance throughout his or her career.

b. **Factors Measuring Scholarship**

Some factors measuring scholarship of high quality are knowledge of the subject matter, analytical skills, originality, significance of the work, and demonstrated ability to communicate in an effective and persuasive manner. The purposes of scholarship may be varied and the forms diverse, but it must be disseminated to a significant audience.

Appointment to the rank of Clinical Professor and grant of tenure requires within the preceding six years, either acceptance for publication of two law review articles constituting a significant contribution to the body of legal literature; or production of an equivalent form of scholarship, evidencing the factors articulated in the first sentence of this paragraph, and taking into consideration the particular duties of the clinical faculty.


a. **Purpose of Requirement**

An outstanding faculty is far more than a collection of able teachers and scholars engaged in autonomous activity. The work of each benefits from the contributions of others. The improvements of the institution’s total educational program take conscientious and time-consuming effort. Therefore, an individual’s contributions to the intellectual life of the institution and to the overall improvement of the program of the Law School are proper considerations in a tenure evaluation. The candidate should have a commitment to collegial faculty decision-making, goodwill, and mutual respect among faculty members.

b. **Factors Requiring Contribution**

Some factors measuring contribution are involvement in moot court programs, Government Law Center, law review, and other co-curricular Law School programs, orientation, administration of special curricular programs such as clinical or writing programs, Law School committee work, and advising student organizations.
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Accessibility to students and other Law School service shall also be considered.

5. Service to the Profession and the Public

a. Purpose of Requirement

The candidate's service to the community and the profession is of long-term value and importance to the Law School.

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.

B. ELIGIBILITY FOR PROMOTION OR TENURE

1. Normal Progression of Rank

Full-time members of the clinical faculty at the School shall hold the rank of Clinical Professor, Associate Clinical Professor or Assistant Clinical Professor. Unless appointment is made pursuant to (2) below, appointment to the full-time faculty shall be at the rank of Assistant Clinical Professor.

Associate Clinical Professor: Prior to April 15 of his or her third year as Assistant Clinical Professor at the School, the candidate shall be considered for recommendation by the tenured faculty for promotion to the rank of Associate Clinical Professor; and the candidate shall be notified as to the result of the consideration by that date.

Clinical Professor: Prior to April 15 of his or her third year as Associate Clinical Professor, the candidate shall be considered for recommendation by the tenured faculty for promotion to the rank of Clinical Professor; and the candidate shall be notified as to the result of the consideration by that date.

2. Exceptions to Eligibility Requirements

a. Persons possessing extraordinary experience or qualifications may be appointed to the faculty at any rank or granted tenure by receiving a two-thirds majority recommendation of the entire tenured faculty, the concurring recommendation of the Dean, and approval by the Board of Trustees.

b. Deferral of consideration to promote a candidate for one additional year beyond the dates specified above for a mandatory consideration of promotion does not require termination of the candidate's employment by the Law School. The candidate may be
reconsidered for promotion or tenure or both. Only one deferral for promotion or tenure may be granted for any candidate, unless further deferrals are granted with a majority vote of the entire tenured faculty.

c. Except as provided below, a candidate shall be considered for tenure no later than his or her seventh year as a full-time teacher, counting for this purpose service at Albany Law School as well as other law schools which are members of the Association of American Law Schools. A term of appointment of a new faculty member may provide that he or she will not be considered for tenure until the fourth (or any specified earlier) year of service at the School, regardless of prior teaching experience. Any such term of appointment shall be furnished in writing to such faculty member at the time of appointment.

C. PROCEDURE FOR PROMOTION AND TENURE

1. Associate Clinical Professor

To qualify for promotion to Associate Clinical Professor, the candidate must have demonstrated sustained competence as a teacher, met the standards of professional integrity, and shown promise of meeting the other tenure standards.

2. Clinical Professor

To qualify for promotion to Clinical Professor, the candidate shall have met all tenure requirements set forth herein. Promotion to Clinical Professor within Albany Law School shall constitute an appointment to Clinical tenure, unless otherwise specified by the tenured faculty or Board of Trustees.

3. General Procedure

The procedure outlined in the Faculty Handbook, Appendix B, Standards and Procedures for Tenure, Promotion, Reappointment and Dismissal, Sections V, VI and VII, shall be followed with regard to notice, duration of tenure, and dismissal.

D. REAPPOINTMENT

Except in unusual circumstances, a Clinical tenure-track faculty member shall be employed pursuant to a one-year contract. After initial appointment, one-year contracts shall be offered by the Dean to such faculty member, unless (1) such member has been rejected by the tenured faculty or the Board of Trustees for promotion or tenure; or (2) the Dean and a majority of the tenured faculty concur that the affected faculty member is not making satisfactory progress towards fulfillment of the criteria for promotion and tenure; or (3) the financial exigencies of Albany Law
APPENDIX B

School require termination of employment of such member. In such event, except as provided in the Standards and Procedures for Tenure, Promotion, Reappointment and Dismissal, Section IV (B) (2), a contract shall not be offered, except to the extent required by the then applicable rules of the American Bar Association and the Association of American Law Schools.

E. TEACHING OF TRADITIONAL COURSES BY CLINICAL FACULTY

Tenure of a faculty member in the Clinical Program would not constitute an entitlement or automatically qualify such a faculty member to teach a non-clinical course.

F. TRANSITION PROVISION

All current clinical faculty may request that the Board of Trustees designate their positions as tenure-track faculty. The initial designation will be as Assistant Clinical Professor. However, those faculty members who have been employed for three years or more may apply to the faculty for recommendation for appointment to a higher rank.

G. CONSEQUENCES OF CLINICAL TENURE

A tenure-track Clinical Faculty Member shall have all the rights, privileges, and obligations of a non-clinical tenure-track faculty member at Albany Law School.

H. CLINICAL INSTRUCTORS

An individual may be appointment Clinical Instructor by the Dean. This individual will be hired on contract which may be renewed. Responsibilities of a Clinical Instructor will be decided by the Dean after consultation with the Director of the Clinic. A Clinical Instructor has no voting privileges or faculty committee responsibilities.
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PART 2

BOARD OF TRUSTEES
RULES ON PROCEDURES FOR FACULTY PROMOTION AND TENURE

These Rules are established pursuant to Article II (13.6) of the By-laws of Albany Law School which states:

To approve or reject recommendations from the President and Dean and the Faculty for promotion or tenure of faculty members, in accordance with rules established by the Board.

Rules

(1) The Chair of the Board of Trustees (“Board”) annually shall appoint a three-person Trustee Committee on Tenure and Promotion (the “Committee”). The function of the Committee is to review all of the procedures followed by the faculty relevant to its recommendations to the Board for promotion or the granting or denial of tenure of a member of the faculty. The Committee shall have available for review, in its discretion, all of the materials assembled by the faculty’s Evaluation Committee in arriving at its recommendations. The Committee may meet from time to time with members of the faculty. The purpose is not to substitute judgment or change the substance of the recommendations of the faculty to be presented to the Board, but rather to review the process and fact finding of the faculty.

(2) If the Dean and the Faculty concur in their recommendations regarding tenure or promotion of a faculty member, the Dean shall present to the Board of Trustees the position of the Dean and the Faculty with written summaries of the findings leading to the recommendation. The chairperson of the Committee shall report on the appropriateness of the process and the extent of its review.

(3) If the Dean and the Faculty do not concur on the issue of promotion or tenure for a faculty member, the Committee shall review the positions and reasons for the recommendations of the Dean and the Faculty and make its own recommendation to the Board. At such time as the Dean determines that the position of the Dean and the Faculty are not the same, the Dean shall notify the Chairperson of the Committee and the Chairperson of the Faculty Evaluation Committee. The Dean and the Faculty each shall present a position paper to the Committee, within ten days of the notice. The Committee shall interview such persons as it deems appropriate, review all relevant materials, and make its recommendations. Prior to the next regularly scheduled or special meeting at which the issue is to be raised, the position papers of the Dean and the Faculty shall be submitted in writing to each Board member. At that meeting of the Board, the Committee shall report its findings and make a recommendation to the Board. Then the Board, in executive session with only Trustees present, shall consider the recommendations and conclude the matter by a vote of the Board of Trustees.
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PART 3

PROCEEDURES FOR PROMOTION AND TENURE SUBCOMMITTEES
Adopted by the Tenured Faculty on September 21, 1995

I. Information from Candidate

Each candidate shall be asked to furnish his or her subcommittee with a memorandum discussing his or her fulfillment of the criteria for promotion and, if applicable, tenure. The subcommittee should receive this memorandum no later than the beginning of the semester in which the tenured faculty’s recommendation is to be made. The candidate may supplement the memorandum after it is submitted.

II. Evaluation of Candidate by Subcommittee

A. The candidate’s memorandum to the subcommittee as well as any follow-up information shall be reviewed and considered by the subcommittee.

B. Teaching

1. A candidate’s teaching in traditional classroom courses shall be evaluated by each member of the subcommittee. In the case of a candidate who is under consideration for promotion from assistant to associate professor, subcommittee members are encouraged to discuss their evaluations with the candidate.

2. A candidate’s teaching in clinical programs shall be evaluated by each member of the subcommittee, as follows:

   a. Each member of the subcommittee shall evaluate, where applicable, the candidate’s simulations, case reviews, and individual supervisory meetings with students. Because simulations and case reviews are scheduled on an individual basis to suit the convenience of students, videotapes may be used to enable subcommittee members to evaluate the candidate.

   b. Client interviews or client counseling sessions may be observed only with the consent of the client and by only one observer at a time. No videotaping may be done for purposes of evaluating a candidate for promotion or tenure.
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c. In addition to the above, each subcommittee shall consult with its candidate to determine whether further methods of evaluation are appropriate; if in the judgment of the subcommittee they are, the subcommittee shall use them as well.

C. Scholarship

1. For promotion to full professor with tenure:

   a. At least two separate works shall be sent to two outside reviewers who shall be offered honoraria.

   b. The subcommittee shall discuss with the candidate in advance the works to be reviewed and the selection of outside reviewers. The subcommittee shall seek review of all works it selects and shall also seek review of any additional works selected by the candidate. The subcommittee shall designate two reviewers, and the candidate shall be given the opportunity to designate a third reviewer.

   c. The subcommittee shall submit available works for outside review by November 1st of the academic year during which the candidate will be considered for tenure. The subcommittee shall submit these works on the understanding with the reviewer that the review will be furnished to the subcommittee no later than six weeks prior to the date of the tenured faculty meeting at which the candidate's promotion is to be discussed. In the event that a reviewer fails to complete a review in time for it to be considered by the subcommittee and the tenured faculty, internal review by the subcommittee and other members of the tenured faculty shall suffice.

   d. Works that are to be reviewed but become available after November 1st shall be submitted to outside reviewers as promptly as is feasible.

   e. The candidate shall be furnished with copies of all reviews and given the opportunity to respond to them.

2. For promotion from assistant to associate professor:

   a. Any scholarly works produced by the time of consideration for promotion shall be reviewed internally by the subcommittee.
b. At the request of the candidate, the subcommittee shall submit his or her scholarly works to outside reviewers according to the procedures outlined for evaluating the scholarship of candidates for promotion to full professor with tenure. The subcommittee shall advise the candidate of the opportunity to request outside review.

II Reports of Subcommittees

A. Each promotion and tenure subcommittee shall prepare and distribute a written report for each candidate.

B. The final report shall be given to the candidate at least two weeks prior to the tenured faculty meeting at which the candidate’s promotion is to be discussed.

C. The candidate shall be given the opportunity to respond, in writing, to the subcommittee report.

D. The written report, and the candidate’s response, if any, shall be distributed to all members of the tenured faculty who are in residence at the school at least one week prior to the meeting.

E. Written reports and responses shall be brought to the meeting and submitted to the chair of the tenured faculty at the end of the tenured faculty’s deliberations, with the following exceptions: the chair of the subcommittee shall retain one copy and transmit that copy, along with a statement of the tenured faculty’s recommendation, to the chair of the Board of Trustees’ Committee on Promotion and Tenure, and the chair of the tenured faculty shall retain one copy and place that copy in the candidate’s personnel file in the Dean’s office. The chair of the tenured faculty shall destroy all other copies of the written reports.
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PART 4

POLICY ON THE AVAILABILITY OF LONG-TERM CONTRACTS TO NON-TENURE TRACK FACULTY

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

Procedure: Any faculty member 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 faculty member’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 faculty member’s fulfillment of the standards set forth below. If the faculty member 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 faculty member 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 faculty member 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 faculty member’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 faculty member’s eligibility. The report shall be submitted to the faculty and the Dean no later than March 31 of the spring semester of the faculty member’s third consecutive year of employment. The committee shall give the faculty member a reasonable opportunity to review, and meet with the committee regarding, the report prior to its delivery to the faculty and Dean.

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

4. If, under the preceding paragraph, the faculty and Dean determine that a faculty
member 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 faculty
member is so eligible, shall offer the faculty member a contract of not less than three
years in duration including such terms and conditions as the Board finds appropriate.
The faculty member shall then be entitled to vote on all matters regarding governance
of the law school except on matters affecting the appointment or status of tenure-track
or tenured faculty.

Criteria: The following four criteria shall be applied in determining an faculty member'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 faculty members in the law, as well as additional requirements, due to the unique
nature of an faculty member’s position in influencing future members of the bar.

b. Factors measuring professional integrity

Factors involved in the professional integrity of an faculty member 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 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. Faculty members are an important component of the educational program. The School will not enter into a long-term contract with any faculty member unless there is substantial evidence that the faculty member 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
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personnel contribute to its activities. Normally, of course, faculty members 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 faculty member a long-term contract. However, to the extent that a faculty member 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 faculty member'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 faculty members: Persons who are currently faculty members 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 faculty member's election. An faculty member 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 faculty members 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 year.

Persons who are currently faculty members 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 faculty member 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.

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Renewal: If in the final year of a faculty member's long-term contract, the Dean finds that the faculty member 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 faculty member another long-term contract. If the Dean does not find that the faculty member 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.

Voting Rights for Faculty with Long Term Contracts

Faculty members receiving a long term contract pursuant to the policy and procedure set out in the Long Term Contract Policy shall be entitled to vote on all matters regarding the governance of the law school except on matters affecting the appointment or status of tenure-track or tenured faculty. The Director of the Clinic shall be entitled to vote on all clinical faculty appointments.

Amended April 25, 2002 to include voting rights for faculty with long term contracts; Modified administratively to reflect changes in titles (replacing references to “instructor” with “faculty member”), August 2004.

Amended February 17, 2009 to allow for the Director of the Clinic to have the right to vote on clinical faculty appointments.
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Eligibility for Attendance and Participation at Faculty Meetings

All persons having faculty status (including visiting faculty, lawyering faculty and clinical faculty) shall be invited to attend and participate in discussion at faculty meetings. In addition, the Director of the Government Law Center, the Director of the Center for Law & Innovation, the Vice-Presidents of Albany Law School and the Assistant Dean for Student Affairs should be invited to attend faculty meetings for the limited purpose of participating in discussion and providing input. Only the tenure-track faculty may vote on personnel matters, with the exception of the Director of the Clinic who shall be entitled to vote on all clinical faculty appointments: