

**UNIVERSITY OF SOUTH CAROLINA SCHOOL OF LAW
DEPARTMENT OF CLINICAL LEGAL STUDIES**

TENURE AND PROMOTION PROCEDURES AND STANDARDS

I. PROCEDURES

1. **Department of Clinical Legal Studies Tenure Committee.** The Department of Clinical Legal Studies Faculty Tenure Committee shall be composed of all tenured faculty members in the department and such other tenured full professors from the Department of Legal Studies appointed by the Dean so that the Committee has at least (7) voting members on each case.
2. **Chair of Tenure Committee.** The Committee shall elect the Chair from among the Department of Clinical Legal Studies faculty on the Committee. If there are no tenured professors from the Department of Clinical Legal Studies on the Committee, the Chair shall be elected from the Department of Legal Studies full professors on the Committee. The Chair may delegate duties to an Associate Dean or the Chair of the Department.
3. **Meetings of the Tenure Committee.** By September 15 of each year, the Dean shall appoint the necessary members to the Committee and the Chair notify the Tenure Committee in writing of the date of the Fall meeting on tenure and promotions. The Chair may call a special meeting on three days' written notice.
4. **Eligibility for Tenure and Promotion.** Untenured Faculty are eligible for tenure consideration. Faculty below the rank of Professor are eligible for promotion consideration. The Tenure Committee shall consider for tenure and promotion every eligible Faculty member who does not in writing waive consideration.
- E. **Notification.** At least 60 days before a Tenure Committee meeting on tenure and promotion, the Chair shall notify eligible Faculty members in writing.
- F. **Preparation of Files.** A Candidate for promotion or tenure shall prepare a file with the assistance of the Associate Dean or the Chair of the Department. The content and organization of this file shall comply with University rules. The Associate Dean or the Chair of the Department shall insure that the file contains all items required by the University. All required information must be in the file at least one week before the meeting on the Candidate, except for a Candidate's responses to outside evaluations or to

the report of the evaluation team. If critical information appears within the one-week period, the Chair may reschedule the meeting.

G. Evaluation Teams.

1. **Appointment.** At least 30 days before a meeting on tenure and promotions, the Chair shall appoint a three-person evaluation team for each Candidate.
2. **Composition.** Only Faculty members eligible to vote on a Candidate may serve on that Candidate's evaluation team. Before appointing an evaluation team, the Chair shall consult with the Candidate about its composition.
3. **Duties.**
 - (a) The team shall attend a representative sampling of the Candidate's classes, at times agreed upon in advance with the Candidate. If possible, each team member shall attend at least two sessions of each of the Candidate's courses including a one-on-one session between the candidate and a student.
 - (b) The team shall review the Candidate's teaching, scholarship, and service, exclusively according to these Standards and the Candidate's file.
 - (c) The team shall contact judges and other lawyers who have had dealings with the Candidate to obtain their opinions of the Candidate's lawyering skills as they relate to the Candidate's teaching.
 - (d) The team shall meet with the Candidate before the Tenure Committee meeting to discuss their evaluation of the Candidate's record.
 - (e) The team shall submit a written report and recommendation to the Tenure Committee at least one week before the meeting on the Candidate and this report and recommendation shall be included in the Candidate's file.
 - (1) At least one week prior to the meeting on the Candidate the team shall provide the Candidate with a copy of its written report and recommendation edited to remove any information that might identify the outside Evaluators of the Candidate's publications. The Candidate may at any time include in the file a written response to the written report and recommendation.

H. Student Evaluations. The file shall contain all student evaluations of the Candidate's classes since the Candidate's appointment, tenure, or last promotion, except for those conducted during the decisional semester. Evaluations shall be on a form approved by the Department of Clinical Legal Studies, and shall be conducted under the supervision of the Dean or the Chair of the Department.

I. Outside Review of Scholarship.

1. The Chair shall arrange for the review of each of the Candidate's publications and clinical scholarship not previously evaluated. The Chair shall solicit at least three outside evaluators for each publication. All solicited evaluations received by the Chair shall be included in the Candidate's file, and the file shall include evaluations by a minimum of five outside evaluators.
2. The Chair shall select a list of possible Evaluators. The Candidate shall not be entitled to nominate but may upon inquiry by the chair, suggest Evaluators for inclusion on this list. The file shall indicate which evaluators, if any, were initially suggested by the Candidate. Whenever possible, Evaluators shall be clinical legal studies scholars from other law schools.
3. The Chair shall discuss the list with the Candidate and consider the Candidate's views on possible Evaluators.
4. The Chair shall make the final selection of Evaluators.
5. The Chair shall provide Evaluators with a copy of these Procedures and Standards and ask the Evaluators to evaluate the Candidate's scholarship in terms of the applicable Standards.
6. The Chair shall ask Evaluators to submit their evaluations in writing, not later than one week before the meeting. The Tenure Committee will not consider oral comments from the Evaluators or any written evaluations received after that deadline.
7. A Candidate is not entitled to know the names of the Evaluators chosen or to read their unedited evaluations. On request, however, the Chair shall give the Candidate copies of the evaluations edited to remove any information which might identify the authors. The Candidate may at any time include in the file a written response to those evaluations.

- J. Comments From Other Faculty Members.** At least 30 days before any meeting on tenure or promotion, the Chair shall solicit written comments about each Candidate from other members of the School of Law faculty and shall add those comments to the file at least one week before the meeting on the Candidate.
- K. Participation in Meetings.**
- 1. Tenure Decisions.** All Tenure Committee members of rank equal to or higher than the Candidate may participate and vote.
 - 2. Promotion Decisions.** All Tenure Committee members of higher rank than the Candidate may participate and vote.
- L. Method of Voting.**
- Tenure Committee members shall vote by secret ballot.
 - Only Tenure Committee members present at the time the vote was called may vote.
 - Tenure Committee members shall vote "yes," "no," or "abstain" on each issue presented. A "yes" vote by a majority of those voting "yes" or "no" is a favorable recommendation. Any vote less than a majority constitutes a negative recommendation.
- M. Justifications of Ballots.** Tenure Committee members who vote on the Candidate must justify their votes on the ballots. If the Tenure Committee's recommendation is favorable, or if the Candidate appeals an unfavorable recommendation, the Dean shall invite faculty members to submit justification letters to the Dean. Faculty members shall base their ballot justifications and justification letters exclusively on the extent to which the information in the Candidate's file satisfies these Standards. The Dean shall add to the file the ballot justifications and all justification letters.
- N. Letters From Faculty Members Who Were Eligible to Vote but Unable To Attend Meeting.** Tenure Committee members who were eligible to vote but unable to attend the meeting may submit letters to the Dean for inclusion in the file.
- O. Favorable Recommendations.**

1. **Forwarding of File.** If the recommendation of the Tenure Committee is favorable, the Chair shall forward the Candidate's file to the Department Chair.
2. Department Chair's Recommendation. The Department Chair shall evaluate the Candidate's file and make a recommendation in writing to the Dean. This written recommendation shall be included in the Candidate's file.
3. **Dean's Recommendations.** On the basis of the file, the Dean shall add a written recommendation to the file. The Dean shall then forward the Candidate's file to the Provost's Office.

P. Unfavorable Recommendations.

1. A Candidate who receives an unfavorable recommendation may file an appeal in writing with the Chair of the Tenure Committee within the deadlines established by the University. The Chair shall add the appeal to the file.
2. The Chair shall distribute the appeal to the Faculty members who were eligible to vote on the candidate and invite additional letters. The Chair shall add these letters to the file.
3. The Chair shall forward the file to the Department Chair.
4. The Department Chair shall evaluate the Candidate's file and make a recommendation in writing to the Dean. This written recommendation shall be included in the Candidate's file and the file forwarded to the Dean.
5. On the basis of the file, the Dean shall make a written recommendation and add it to the file. The Dean shall then forward the Candidate's file to the Provost's Office.

Q. Confidentiality. All aspects of the tenure and promotion process are confidential, except that the Candidate is entitled to request and receive the following from the Dean, when available:

1. Copies of outside evaluations edited to remove any information which might identify the authors;
2. A copy of the evaluation team's report and recommendation, edited to

- remove any information which might identify the outside Evaluators;
3. The positive or negative nature of the Tenure Committee vote, but not a numerical breakdown of that vote;
 4. A copy of the Department Chair's recommendation in the Candidate's case edited to remove any information which might identify any outside reviewers or evaluators;
 5. A copy of the Dean's recommendation edited to remove any information which might identify any outside reviewers, evaluators or faculty member;
 6. The positive or negative nature of the University Committee on Tenure and Promotion vote, but not a numerical breakdown of that vote;
 7. A written summary of the remainder of the file prepared by the Dean after his review of the file before it is forwarded to the Provost.

II. STANDARDS

While any professorship in law is a hybrid position, professors in the Department of Clinical Legal Studies are required to be both academic lawyers and active practitioners. Although still bound by professional responsibilities, faculty in the Department of Legal Studies are not engaged in active practice and devote the bulk of their energies to the academic pursuits of teaching and scholarship. As an academic lawyer, the professor in the Department of Clinical Legal Studies has an obligation to be a teacher and scholar. But as an active practitioner, the Clinical Legal Studies professor has daily responsibilities to clients, the courts, and the bar, which Department of Legal Studies faculty may largely elect to avoid. These active professional obligations, coupled with the nature of the curriculum entrusted to Clinical Legal Studies faculty, will necessarily have an effect on the manner in which their academic responsibilities will be discharged. In particular, the scholarly responsibility of an academic lawyer may be discharged by faculty members in the Department of Clinical Legal Studies through means other than the detached scholarship expected of faculty in the Department of Legal Studies. Nevertheless, Clinical Legal Studies professors must recognize that their professional activities should serve to develop competent and ethical candidates for the practice of law, enlighten and assist development of the law, and further the quality of practice and the image of the legal profession in the community.

A. Definitions.

1. **Good Teacher.** When evaluating a Candidate's teaching, the

Faculty will consider peer visitations, student evaluations, and teaching awards. The indicia of a good teacher include:

- (a) Command of the subject matter;
- (b) Organization of the subject matter;
- (c) Effective classroom presentation;
- (1) Effective one-on-one critique and instruction;
- (e) Fulfillment of teaching responsibilities as specified in the Faculty Manual;
- (f) Availability to advise and counsel students, to consult with them on research projects, and to provide them with professional guidance and support.

2. **Significant Scholarship.** To be an academic lawyer the professor in the Department of Clinical Legal Studies must do more than demonstrate competence as a practicing lawyer. Membership in the community of academic lawyers requires Clinical Legal Studies professors to contribute through scholarship. While a contribution to traditional scholarship accomplished through publication of books, book chapters, or articles appearing in law reviews and journals is appropriate, the Clinical Legal Studies professor may also produce scholarship through other forms of writing disseminated to the relevant audiences. Examples of such forms of writing include briefs or memoranda in connection with the representation of clients in the Department's or pro bono cases; legislation, regulations, reports, and studies; and theoretical or empirical research relating to clinical legal studies or its relationship to the legal process.

Significant publications are normally articles between 30 and 50 pages in length, published in law reviews and Internet journals, often with heavy footnote annotation. (A single, proportionately longer, comprehensive article or book may be considered the equivalent of two or more normal significant publications.) Law reviews and journals are extensively read by judges, practitioners, law professors, and other professionals and can have a decisive influence on the development and analysis of the law. Although law reviews and journals are usually not "refereed" in the traditional sense, the process of review associated with acceptance of any article by a law review or journal is normally quite rigorous. "Publication" includes manuscripts for which the Candidate has received a written commitment for publication, as well as those published prior to the Candidate's service

at the Law School.

The factors indicating significance of publications or other scholarship include:

- (a) The quality of the research and analysis. A significant publication demonstrates authoritative command of the chosen topic, familiarity with pertinent authorities, and careful evaluation of the authorities and issues.
- (b) The scope of the chosen topic. A significant treatment of a narrow topic usually will be more detailed or contain deeper or more incisive analysis than might be required for a significant treatment of a broader topic.
- (c) Reputation of the journal in which it is published or the standing of the audience to which it is disseminated.
- (d) Impact. Among the indicia of impact are academics', judges', practitioners', or other professionals' use of the scholarship, frequency of citation, the scholarship's contribution to the Candidate's reputation for scholarship, and its positive reception by an informed audience.

3. Substantial Service Contributions to the Law School. Substantial service consists of effective contributions to the operation of the Law School. Examples include the following:

- (a) Diligently discharging Law School committee responsibilities; and
- (b) Advising Law School teams and student organizations.

4. Substantial Service Contributions Outside the Law School. Examples include the following:

- (a) Presenting papers at professional meetings;
- (b) Serving as a Reporter for a law reform project;
- (c) Editing a legal journal;
- (d) Serving on University committees;
- (e) Participating in scholarly organizations or bar associations;

- (f) Serving as a board member or officer of a public-service nonprofit organization; and
- (g) Providing pro bono legal representation.

Some substantial service contributions may also demonstrate a continuing commitment to scholarship and teaching.

5. Durability and Consistency of Performance. Durability refers to a candidate's length of service in relevant academic or professional positions at the University or elsewhere. Consistency refers to a candidate's teaching, service, and scholarly productivity throughout his or her professional career.

- (a) A candidate first appointed as an Assistant Professor shall normally be eligible to be considered for promotion to Associate Professor in the fourth, fifth or sixth year of service and for tenure in the fifth or sixth year of service.
- (b) A faculty member awarded tenure shall normally be eligible to be considered for promotion to Professor after two years of service with tenure.
- (c) A candidate first appointed as an Associate Professor or Professor shall normally be eligible to be considered for tenure and, if appropriate, for promotion to Professor in the fourth or fifth year of service.
- (d) Relevant academic or professional experience elsewhere may accelerate the normal time for a Candidate to be considered eligible for tenure or promotion. The Candidate may satisfy the requirements for tenure and promotion with work before and after the date of hire, but the Candidate must demonstrate a continuing commitment to the relevant standards of teaching, scholarship, and service.
- (e) There shall be no distinction in application of criteria to candidates for tenure in their last year of eligibility and those in any year prior to their last year of eligibility.

B. Tenure at the Rank of Assistant Professor. The Tenure Committee shall not recommend tenure at the rank of Assistant Professor.

C. Promotion from Assistant Professor to Associate Professor. For promotion from Assistant Professor to Associate Professor, the Candidate

must demonstrate durability and consistency of performance and

1. Be a good teacher;
2. Have produced two significant pieces of scholarship (or their equivalent), at least one of which is a publication;
3. Have made substantial service contributions to the Law School.

D. Tenure at the Rank of Associate Professor. For tenure at the rank of Associate Professor, the Candidate must have met the requirements for promotion to Associate Professor and must have demonstrated a continuing commitment to teaching, scholarship, and service. A piece of significant scholarship beyond that required for promotion to Associate Professor demonstrates a continuing commitment to scholarship. Beginning to make contributions outside the Law School of the sort described in Section II.A.4. demonstrates a continuing commitment to service.

E. Promotion from Associate Professor to Professor. For promotion from Associate Professor to Professor, the Candidate must demonstrate durability and consistency of performance and:

1. Be a good teacher;
2. Have produced two pieces of significant scholarship (or their equivalent), at least one of which is a publication, if the candidate seeks promotion within four years after receiving tenure, and proportionately more scholarship if the candidate seeks promotion more than four years after receiving tenure. These pieces of scholarship must be in addition to those required for tenure.
3. Have made substantial service contributions to the Law School and outside the Law School.

F. Promotion and Tenure of Faculty Hired at the Rank of Associate Professor or Professor. A person hired at the rank of Associate Professor must meet these Standards, including a demonstration of consistency and durability of performance, for any subsequent promotion or tenure. To receive tenure, a person hired at the rank of Professor must satisfy the same requirements a person hired at another rank would have to meet to receive tenure and promotion to Professor. The Tenure Committee shall require outside evaluation of the Candidate's scholarship at the University of South Carolina and may require outside evaluation of some or all of the Candidate's previous scholarship.

III. TRANSITION RULES

- A.** Faculty members initially hired on or before January 1, 1995, shall be promoted and tenured under the procedures and standards in effect at the time of their hire.
- B.** Faculty members initially hired after January 1, 1995, who are within their probationary period shall be promoted and tenured under the procedures and standards in effect at the time of their hire.
- C.** Subsequent promotions of faculty members initially hired after January 1, 1995, shall be under the procedures and standards in effect at the time of their application for promotion.
- D.** Any Faculty member eligible to be considered under earlier standards may elect in writing to be reviewed for tenure or promotion under sections I and II of these standards.

Unanimously Adopted by the Department of Clinical Legal Studies Faculty February 14, 2001.

Approved by the University Tenure and Promotions Committee effective April 1, 2001.