

# College of Law Tenure Standards and Procedures

University of Iowa

College of Law

## STANDARDS FOR TENURE, PROMOTION AND MERIT PAY

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### I. INTRODUCTION

This statement identifies the qualities that should characterize full-time law school faculty members. These qualities are intended to guide all persons called upon to evaluate regular faculty members and all regular faculty members preparing themselves for evaluation for promotion, tenure, and merit pay increases.

#### A. Background

The performance of every faculty member must be of a high quality and every faculty member must be fully and profitably engaged in teaching, research, and other professional activities related to his or her academic appointment. These requirements are the same for all, but the manner in which individual faculty members demonstrate their quality and vitality can be expected to vary widely.

A law school is a constituent part of an academic institution whose primary functions are teaching and scholarship. These are primary functions of the law school as well. Excellence in teaching is something to which every faculty member aspires; effective teaching is a requirement for all. In addition, every faculty member is expected to engage in the study of and critical evaluation of some aspects of the legal system. It is also expected that the fruits of this inquiry will result in scholarly publications.

The law school is also an institution with the fundamental purpose of preparing women and men for the practice of law in the many forms required by our society. Teaching technical craftsmanship is important, but it is also necessary to nurture a concept of lawyering that is grounded not only in the skillful formulation and application of legal doctrine but also in an obligation to society. In this regard, faculty are encouraged to use their legal skills and knowledge (together with students whenever possible) in ways that will improve the structure and operation of the legal system.

As members of both the law school and the university community, every faculty member is expected to engage in professional service in a manner that is consistent with his or her teaching and research, and other professional commitments.

#### B. Timing

For persons with no teaching experience prior to joining the university faculty, general university standards establish a maximum six-year period before the tenure decision.

University of Iowa, [Operations Manual § III 10.1a \(4\) \(c\)](#). On the basis of past experience in the College of Law, the experience of law schools in general, prevailing conditions in the relevant job market, and the qualifications of persons recruited for law faculty positions, the ordinary pre-tenure period for a College of Law faculty member with no prior teaching experience is five years. This means that the tenure decision ordinarily will be made at the close of the fall semester of the candidate's fifth academic year as a member of the law faculty.

It should be emphasized that an ordinary tenure track of five years does not constitute an inflexible five-year up-or-out rule. A candidate may request review for tenure and promotion at any time, and the College must provide such review. Furthermore, if warranted by the circumstances, following consultation **with** all appropriate faculty members, the Dean and a candidate jointly may determine that a tenure decision should be made after the ordinary pre-tenure period, subject to the University's rule that a candidate's tenure track ordinarily may not exceed six years. At the time that any extension is granted, the appropriate body of the law faculty and the Dean will determine whether an increase in scholarly productivity will be required for the candidate to attain tenure beyond that expected for the five year period. However, an extension beyond the six-year tenure track authorized by University policy and granted by the Provost (e.g., pursuant to parental leave policy) may not trigger an increase in expectations for scholarly productivity.

If a candidate requests early tenure review in part on the basis of prior teaching experience, the candidate's teaching, scholarship, and professional service during the entire period of full-time teaching will be considered in the tenure review.

## **II. TENURE STANDARDS**

The procedures regulating the tenure and promotion process are prescribed in two documents:

[Office of the Provost](#), University of Iowa, "Guidelines For Tenure and Promotion Decision-Making At the University of Iowa," and  
["Procedures for Tenure and Promotion Decision-Making,"](#) College of Law, University of Iowa, May 19, 2005 (hereinafter the "Procedures")

Every faculty member is expected to engage fully in teaching, the production of published scholarship, and professional service. The sections that follow set forth specific tenure standards pertaining to these three activities. These standards make clear that

effective teaching and sufficient scholarship are the core requirements for the conferral of tenure.

## **A. Teaching Effectiveness**

The College of Law is a teaching institution. Demonstrated teaching effectiveness is a condition of the conferral of tenure.

The [Procedures](#), paragraphs II.C., describe the law school's procedure for the evaluation of teaching and indicate that the evaluation will be based on student teaching evaluations and peer evaluation of teaching.

The issue on teaching is whether the candidate's record presents convincing evidence that the candidate is an effective teacher in the College of Law. There is no litmus test for teaching effectiveness. Each source of information must be evaluated with care. Such factors as the development of innovative teaching materials or teaching techniques, experimentation with law-related courses for nonlawyers, and participation in out-of-class counseling, including service on law-related Ph.D. committees, should be taken into account. Insofar as traditional law school teaching is concerned, the number of times that a particular course has been taught, the number of new courses undertaken simultaneously, and the teaching load are among the factors that can color student and faculty impressions of teaching. Each tenure committee is to ensure that its report develops all relevant information concerning the overall teaching effectiveness of a candidate during the entire probationary period, and more importantly, the candidate's demonstrated potential for teaching effectiveness in the future.

## **B. Scholarship**

### **1. Introduction**

The College of Law is a research institution. As a result, a demonstrated capacity for rigorous analysis and a continuing commitment to high quality scholarly productivity throughout a person's academic career are conditions for the conferral of tenure.

The [Procedures](#), paragraphs II.D., describe the law school's procedures for the evaluation of scholarship.

There are several distinct reasons for requiring a faculty member to satisfy scholarly standards before tenure is granted. Research contributes to a candidate's own knowledge and hence to the effectiveness of classroom teaching. Through the dissemination of scholarship, a candidate also extends the reach of his or her teaching beyond the walls of the classroom to the profession and to the public. Finally, research and scholarship contribute to the expansion of the sum of extant knowledge of and about law and society, and to the more effective and just functioning of the legal system.

### **2. Quantitative Standards**

By the time a candidate is considered for tenure, he or she is expected to have [personally produced, since joining the faculty](#), a record of scholarship that contains, at a minimum, two substantial and analytical scholarly works or the equivalent thereof. For

the purposes of this standard, a "substantial" scholarly work is normally equivalent to a major law-review article. The entire body of scholarship should be of sufficient length, scope, and quality to demonstrate, to the faculty (a) that the candidate has the capacity to produce high-quality work as described in Section II. B. 3 below, and (b) that the candidate will continue to produce published scholarship throughout his or her academic career.

For the purposes of this quantitative standard, a scholarly work is considered produced when, prior to the controlling date for the solicitation of external reviews, as determined by the [University's](#) and the College of Law's [Procedures for Tenure and Promotion Decision-Making](#), it has been published, accepted for publication, or completed and ready for peer review. In addition, absent extraordinary circumstances, it is expected that by the time the candidate is considered by the faculty (normally in December of the candidate's fifth year), (a) at least one of the candidate's scholarly works will have been published or accepted for publication, and (b) at least one additional substantial and analytical scholarly work will have been completed and reviewed both internally and externally.

If any work (from initial research through writing) on one or more of a candidate's scholarly products was done before she or he joined the law faculty, the circumstances of that effort must be disclosed by the candidate, and this fact shall be noted in the candidate's tenure report. Similarly, if a scholarly work is jointly authored, the candidate shall document the relative contribution of each co-author, and this fact shall be noted in the candidate's tenure report. The normal expectation is that a candidate's scholarly work will be published in law reviews, other scholarly journals (interdisciplinary or from another discipline), or as a book or book chapter.

In evaluating whether the quantity of a candidate's scholarly production is sufficient to demonstrate to the faculty that the candidate has the capacity to produce high-quality scholarship evidencing rigorous analysis, and that the candidate will continue to produce published scholarship throughout his or her academic career, the faculty will consider:

- the number of research products;
- the extent to which research products are demonstrably a candidate's independent effort;
- the quality of each research product (See Section 3 below); and
- any special difficulties inherent in the nature of the endeavor.

### ***3. Qualitative Standards***

#### ***a. Research Methodology***

The quality, as opposed to the quantity, of a candidate's work is the most important single factor in evaluating a candidate's scholarship in connection with the tenure decision. High quality scholarship requires rigorous analysis. As a result, in judging quality the faculty will consider the nature of the research methodology employed based on the following seven categories, with the most creditable research products falling

within the analytic categories (2)-(7), which are not distinguishable in terms of their significance or the weight that should be attached to them:

1. pure description--a clear explication of what cases, statutes, regulations, or a body of literature says. This category includes both a summary simplifying a larger quantity of material and a clarification of more complicated raw material. However, it is unlikely that a faculty member will be awarded tenure on the basis of scholarship that is purely descriptive.
2. analytical description--in addition to what is covered by the preceding category, this category contemplates the identification of inconsistencies and the reconciliation of apparent inconsistencies;
3. analysis--in addition to the preceding, this category includes commentary which adds insights of the author not coming directly out of the material; for example, the author might point out and explain why "non-statutory" review in administrative law is really statutory;
4. critical analysis--this category identifies written work in which the author develops a position through which she or he demonstrates the implications, justifications, or significance of the material under consideration;
5. original synthesis--this category refers to the bringing together of the material under consideration in a "new way" by developing a new organizing principle or a new frame of reference;
6. proposed solution--this category involves the presentation and defense of a solution to a problem through a proposed statute, regulation, or legal theory.
7. an empirical study that supplements a research product which falls within Categories (2)-(6)

b. *Quality of Execution of the Research Products.*

The indicia listed below relate to those aspects of "quality" that deal with how well a candidate accomplished his or her task and how demanding that task was:

- (1) clarity of expression;
- (2) thoroughness of analysis;
- (3) scope and depth of subjects covered;
- (4) difficulty or complexity of the subject matter;
- (5) originality of the study; and
- (6) actual or likely impact of the work.

**C. Professional Service**

The [Procedures](#), paragraphs II.E., describe the law school's procedures for evaluating professional service.

The fundamental obligations of a faculty member are teaching and research. Full-time faculty members are also expected to contribute service to the law school, university, legal profession, legal system or other constituencies. That service may take a wide variety of forms. Although service contributions are commendable and are to be encouraged during the pre-tenure period, a candidate should not undertake professional contributions that jeopardize his or her ability to satisfy fully the teaching and scholarship requirements for tenure.

A candidate has sufficient professional contributions for purposes of tenure if he or she adequately has performed College of Law committee assignments and ordinary faculty responsibilities. Failure to perform such duties and responsibilities can result in the denial of tenure.

#### **D. Notice to Candidates**

Within the first two months of a candidate's joining the faculty, the Dean will deliver to the candidate resumes of (a) the individuals who have been granted tenure within the last five years, or if fewer than five such persons were granted tenure during that period, (b) the five individuals most recently awarded tenure in the law college (hereinafter "the comparison group"). These resumes will be redacted to reflect only the successful candidate's scholarship and service accomplishments at the time tenure was conferred and the length of the candidate's probationary period. In addition, during the first two months of a candidate's service the Dean will tender to the candidate numerical one-page summaries of student teaching evaluations of the comparison group while in probationary status. The Dean's tender will also include the teaching evaluations (numerical summaries) for all full-time faculty (a) with tenure and (b) without tenure, during the last five years. Each of these summaries will indicate the course name, enrollment, and whether the faculty member was tenured. These requirements are intended to give candidates the opportunity to assess for themselves how the law faculty applies its tenure standards in evaluating teaching, scholarship, and service.

### **ACADEMIC RANK: APPOINTMENT AND PROMOTION STANDARDS**

#### **Associate Professor**

Entry level teachers are normally hired at the rank of associate professor if they have significant experience in judicial clerking, legal practice, or relevant graduate work and their record provides unmistakable promise of ability as a teacher and productive scholar. This tradition reflects a faculty judgment that in terms of creating a foundation for a future successful academic career in law teaching, such experience in the early years of one's career is at least as important as teaching experience on a probationary tenure track as an assistant professor. Most of the law schools with whom we compete in recruiting entry level teachers share this assessment and hire entry level faculty at the rank of associate professor.

Entry level faculty hired as assistant professors are to be promoted to the rank of associate professor upon the granting of tenure and satisfaction of the following standards:

1. Convincing evidence that the candidate is an effective teacher of law students.
2. Demonstration of scholarly achievement supported by substantial publications of high quality.
3. Departmental, collegiate, and/or University service, and, if appropriate, professional service at an appropriate level.
4. The quality and quantity of teaching, scholarly/artistic accomplishment, and service should give unmistakable promise of promotion to full professor.

See University of Iowa, [Operations Manual § III 10.4b](#).

## **B. Full Professor**

In conjunction with the conferral of tenure or thereafter, an associate professor is to be considered for promotion to full professor upon the basis of teaching, research, and professional contributions which have been engaged in both prior and subsequent to appointment to the faculty and which have not been taken into consideration previously in connection with promotion in the College of Law.

Associate professors are to be promoted to the rank of full professor upon satisfaction of the following standards:

1. Consistent record of high-quality teaching.
2. Continued scholarly achievement of high quality, accompanied by unmistakable evidence that the candidate is a nationally, and where applicable, internationally recognized legal scholar in the field.
3. The candidate has a record of significant and effective service to the department, college, and/or the University, and the profession.

See, University of Iowa, [Operations Manual § III 10.4b](#).

## **IV. MERIT PAY STANDARD**

The amounts, if any, of merit pay increases for each faculty member shall be determined by the Dean. The Dean's decision should reflect a consideration of the faculty member's accomplishments in the areas of teaching effectiveness, published scholarship, and professional service. The Dean's determination should also take into account extraordinary accomplishments in any one or more of these areas.

The merit pay principle requires recognition that the contributions of various faculty members will vary widely in terms of each person's individual strengths and interests and the particular opportunities available from time to time. Despite this individual variation, overall effectiveness in teaching is a condition precedent to annual increases. In addition, it is assumed that every faculty member will continue to engage in scholarship throughout his or her career. However, the nature of such scholarship and its form may be different for different persons, and the cycle of production and publication is not expected to fit a single pattern. Naturally, the quantity and quality of a person's most recent activities will influence his or her merit pay increase, but productivity should always be evaluated from a multi-year perspective. Persons of equal merit under these standards should be treated equally.

### **A. Teaching**

The Dean's assessment of teaching effectiveness will be based on: student evaluations and, if available, peer evaluations; the quantity and quality of small-section writing supervision; advice to law school journals; supervision of independent research and externships; the creation of new courses and innovative teaching methods; and written products such as teaching materials (commercially published, university published, or

unbound distributed) containing substantial textual discussion, notes, or supplementary materials written by a faculty member.

## **B. Scholarship**

In determining merit pay, the Dean will consider the quantity and quality of published scholarship. For this purpose, scholarship is defined in terms of the standards set forth above in section II. B. 3. This standard applies regardless of the audience to which a scholarly publication is primarily addressed, i.e., the academic community; those who operate legal institutions such as courts, legislature, administrative agencies, and executive branch officials; the practicing bar; and the general public. Scholarly products include, but are not limited to, treatises, books, monographs, law review articles, book chapters, final statutory text (e.g., uniform and model laws) produced in the capacity of primary drafter or reporter, with explanations, justifications, and comments, law-related reviews, and formal official reports to government and nonprofit organizations.

## **C. Professional Service**

In assessing merit pay increases, the Dean will consider all types of professional service contributions, including written products. However, compensated work for private parties does not constitute professional service for this purpose.

Among the professional contributions in which College of Law faculty members have been engaged in the past have been participation in the College of Law's Continuing Legal Education program, service in the governance mission of the Law College and University (e.g., on committees and task forces), service on Bar Association committees, participation in law reform processes, presentation of speeches to various audiences, and advice to and representation of clients representing public interests. Professional service-related products include briefs and memoranda of law, practice manuals, traditional bar review and Continuing Legal Education materials, law-related articles written for publication in non-scholarly periodicals circulated within the legal profession or to the general public, and law related speeches and testimony.

The weight to be accorded a particular professional contribution is a function of such factors as:

1. its value to the College of Law, the University and society;
2. the importance and quality of the work; and
3. the extent to which the experience contributes to a candidate's development as a teacher or scholarly researcher.

Unless professional contributions result in a work product that can be independently evaluated as either teaching or research, professional service contributions generally cannot compensate for inadequate teaching or research. Nevertheless, professional contributions are always relevant to a determination as to whether a candidate has made full and productive use of his or her available time.