

# Chapter 2 – Personnel Procedures

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## **2.1 Tenure Documents of Capital University**

The tenure documents of Capital University can be found in the *Faculty and Administrative Handbook* of Capital University.

## **2.2 Capital University Law School Appointment, Reappointment, Promotion, and Tenure Standards and Procedures**

(Approved Spring 1997; Amended January 1998--Capital University Law School Faculty)

### **2.2.01 General Policy**

Promotion and tenure standards are designed to assure that the Law School's faculty will fulfill the school's mission. In applying these standards, consideration shall be given to the particular tasks assigned to individual faculty members and to the relative importance of the responsibilities agreed to by the Dean and the candidate. These standards and procedures govern the procedures of the Capital University Law School.

### **2.2.02 Faculty Appointment, Reappointment, Promotion, and Tenure Standards**

#### A. Introduction

Law school appointment, reappointment, promotion, and tenure considerations are primarily a matter for determination by members of the law school faculty. Except in rare cases for compelling reasons, faculty appointments, reappointments, promotion, and tenure actions will not be made over the opposition of a majority of those law school faculty members entitled to vote under Section 2.2.04(F)(3).

The reappointment, promotion, and tenure standards and procedures are a part of the development of a law school faculty and are not dependent on numerical limits on how many persons can hold a particular rank or tenure. Reappointment, promotion, and the granting of tenure are independent decisions.

Reappointment, promotion, and tenure decisions are based on the following: (1) teaching effectiveness; (2) scholarship; and (3) university, professional, and community service. Although no absolute quantitative values can be assigned to these three categories, teaching effectiveness and scholarship weigh more heavily than do university, professional, and community service.

#### B. Definitions and Explanation

1. Teaching effectiveness. Teaching effectiveness means teaching that is thoughtful, provocative, and effective.

Teaching effectiveness will be evaluated (based primarily on peer review) by considering the following factors: knowledge and understanding of the course material; level of preparation for each class; selection and organization of course materials; effectiveness of communication; ability to stimulate critical thinking among students; enthusiasm for teaching; relationship with students; and professional classroom demeanor. For candidates who are engaged in clinical teaching, teaching effectiveness will be evaluated (based primarily on peer review) by considering the following factors: depth of understanding of the subject, legal issues, evidentiary issues, and local practice; ability to stimulate interest and thinking among students; ability to identify and develop pertinent ethical and policy issues; provision of sufficient feedback to students; relationship with students; and professional demeanor.

2. Scholarship. Scholarship means high quality contributions of legal writing and research that evidence insights into the nature of legal problems.

In any reappointment, promotion, or tenure decision, the following factors should be considered in evaluating whether the candidate's legal writing and research is of high quality: clarity of expression; thoroughness of analysis; scope and depth of subjects covered; difficulty and complexity of the subject matter; originality of the study; and actual or likely impact of the work. Although no particular form of scholarship must be adhered to in order to satisfy the scholarship component of the criteria for reappointment, promotion, or the awarding of tenure, ordinarily the candidate will demonstrate scholarship in the form of scholarly law review articles or comparable scholarly products.

When a candidate offers a scholarly product as comparable to a law review article or articles, it must:

- 1) reflect the same degree of originality, creativity, intellectual inquiry, and effort as a law review article; and
- 2) advance knowledge and understanding of legal matters.
- 3) Projects, such as empirical research, a book, or a chapter in a book may satisfy the criteria. Identifiable contributions to co-authored publications will also be considered.
- 4) University, Professional, and Community Service. University, professional, and community service means contributions to the university, the profession, or the community (local or national).

## C. Criteria for Reappointment

Subject to the constraints on reappointment otherwise applicable to probationary employees contained in University regulations, a candidate shall be reappointed if he or she is making sufficient progress toward the achievement of tenure.

#### D. Criteria for Promotions

1. A non-tenured faculty member hired at the assistant professor level may seek promotion to associate professor after having completed two full years as an assistant professor. Such a candidate shall be promoted to associate professor when he or she has made sufficient progress to make likely the achievement of tenure. Publication or acceptance for publication of a completed scholarly article (or completed comparable scholarly product) by the candidate that meets the standards defined in Section 2.2.02(B)(2) will raise a presumption that the candidate has met the scholarship component of the criteria for promotion to associate professor.
2. An associate professor may seek promotion to full professor after having completed two full years as an associate professor. Such a candidate shall be promoted to full professor when his or her teaching effectiveness, scholarship, and university, professional, and community service have earned him or her a reputation for excellence and it is likely that the candidate will continue to be an effective teacher, productive scholar, and contributor to the university, the profession, and the community. Publication or acceptance for publication of three completed scholarly articles (or completed comparable scholarly products) by the candidate that meet the standards defined in Section 2.2.02(B)(2) will raise a presumption that the candidate has met the scholarship component of the criteria for promotion to full professor.

#### E. Criteria for Tenure

Unless otherwise agreed to in writing at the time of initial appointment, a faculty member may first be considered for tenure during his or her fourth year of full-time law teaching, provided that two years have been completed at Capital University Law School. Unless otherwise agreed to in writing at the time of initial appointment, the contract tendered to a non-tenured tenure-track faculty member for his or her seventh year of active employment as a tenure-track faculty member at Capital University Law School must be either an appointment with tenure or a terminal one-year contract.

A candidate shall be granted tenure when his or her overall record demonstrates teaching effectiveness, scholarship, and university, professional, and community service as defined in Section 2.2.02(B) and it appears likely that the candidate will continue to be a vital, productive faculty member throughout his or her career.

The quality, as opposed to the quantity, of a candidate's work is the most important single factor in evaluating scholarship in connection with the tenure decision. Nonetheless, publication or acceptance for publication of two completed scholarly articles (or completed comparable scholarly products) by the candidate that meet the standards defined in Section 2.2.02(B)(2) will raise a presumption that the candidate has met the scholarship component of the criteria for tenure. Normally, this presumption will not arise unless the scholarly articles (or comparable scholarly products) were written within six years of the candidate's application for tenure.

### **2.2.03 Qualifications for Faculty Appointment**

The following statement of qualifications shall serve, in light of the criteria specified in Section 2.2.02, as normal standards for new tenure-track appointments at Capital University Law School.

A. Librarian

J.D. (or LL.B.), a graduate degree in library science, and experience in a law library.

B. Assistant Professor

J.D. (or LL.B.) or, in exceptional cases, Ph.D.

C. Associate Professor

J.D. (or LL.B.) or, in exceptional cases, Ph.D.; and has satisfied the scholarship criteria for promotion to associate professor as defined in Section 2.2.02(D)(1); and either:

1. six years of law work; or
2. three years as a full-time faculty member in an ABA-accredited law school.

D. Professor

J.D. (or LL.B.) or, in exceptional cases, Ph.D.; and the qualifications for promotion to full professor as defined in Section 2.2.02(D)(2); plus a minimum of six years law teaching in a full-time position at an ABA-accredited law school.

Notwithstanding the foregoing normal standards, the Dean, after consultation with the faculty, may hire a tenure-track faculty member at a different rank than these standards would otherwise indicate.

### **2.2.04 Procedure**

A. Notice and Timing of Faculty Consideration of Personnel Actions

1. The faculty shall consider all individual non-tenured tenure-track faculty members for reappointment each year.
2. In order to be considered for any promotion or for tenure in an academic year, a faculty member must apply in writing to the Dean no later than the first day of Fall semester classes that year. The Dean shall promptly forward the candidate's application to the chair of the Faculty Personnel Actions Committee and the chair of the candidate's individual evaluation committee.

3. The specific dates set for the various stages of the Procedure in the following provisions will apply unless a majority of the faculty entitled to vote under ' IV(F)(3)(a) votes to reset one or more of the dates. If a date specified in the following provisions falls on a weekend or holiday, the date of the next business day will be substituted.

B. Faculty Personnel Actions Committee

The Dean annually shall appoint a three-member Faculty Personnel Actions Committee (FPAC) to administer the reappointment, promotion, and tenure process. At least one of the members shall have served on the committee during the immediately preceding year. Duties of the FPAC include:

1. coordinating individual evaluation committees;
2. explaining procedures to all law faculty members;
3. setting a specific calendar for the Procedure; and
4. coordinating the evaluation of teaching effectiveness of visiting and part-time faculty members.

C. Individual Evaluation Committees

1. An individual evaluation committee shall be appointed for each full-time tenure-track faculty member who is either not tenured or not a full professor. Each committee shall consist of three persons. The committees will operate under the general administrative supervision of the FPAC.
2. Members of the evaluation committees must be tenured full professors. They shall be appointed by the Dean in consultation with the candidate to insure that all new members are acceptable to the candidate.
3. The evaluation committee for each candidate will be appointed at the beginning of the fall semester of the candidate's first year and will continue until the candidate either leaves the law school or becomes a tenured full professor. Membership on the individual evaluation committee will change only (1) when a member of the committee leaves the law school, goes on leave or sabbatical, or resigns from the committee; or (2) when the Dean, after consultation with the candidate, decides that a member should be replaced.
4. Each individual evaluation committee will conduct a thorough and ongoing review of the accomplishments of its candidate as to all factors relevant to any upcoming personnel action. This review will include:
  - 5) class evaluations (which may be made by faculty members not on the committee) or evaluations of other activities for candidates not primarily engaged in classroom teaching. Ordinarily, these evaluations should occur every semester until the candidate is granted tenure;
  - 6) review of the candidate's scholarly articles (or comparable scholarly products). In order to assist the law school faculty in evaluating the quality of a candidate's scholarly work, at the time the candidate seeks promotion or tenure, his or her file must (absent extenuating circumstances) contain at least two outside evaluations of each work the candidate presents as satisfying the scholarship portion of the promotion and tenure criteria. Previously-evaluated scholarly works need not be sent out again. All outside evaluations shall be sought by the chair of the candidate's individual evaluation committee after consultation with the candidate. No outside evaluation shall be sought from a person whom the candidate believes may not evaluate his or her work fairly. The candidate may also seek additional outside reviews; and
  - 7) assessment of public service, bar, university, and law school activities.

D. Availability of Files and Notice of Questions and Concerns

1. In August of the fall semester during which tenure-track faculty members will be considered for reappointment, promotion, or tenure, individual evaluation committees shall begin preparing or supplementing a file on each candidate. This file will include information compiled pursuant to Section 2.2.04(C)(4);

material placed in the file by the candidate, including a personal statement and information that documents his or her activities and achievements; other information requested by the faculty; student evaluations; and any additional relevant information. The file shall be made available for review by the entire Law School faculty no later than October 10.

2. Faculty members shall raise any questions regarding specific concerns, criticisms, or potential problems about each candidate's readiness or fitness for the proposed personnel action when necessary to give the candidate notice and an opportunity to prepare a response. These questions must be signed and must be submitted to the chair of the candidate's individual evaluation committee in writing by October 31. The chair, in conjunction with the chair of the FPAC, shall distribute all such questions to the entire faculty by November 3.

E. Additional Information and Preparation for Meeting

1. If the written questions raise concerns about any candidate, the candidate and the candidate's individual evaluation committee shall attempt to collect information necessary to address those concerns. This may include student surveys, additional class evaluations by different faculty members, and additional outside evaluations of scholarship.
2. If relevant information about any candidate first comes to the attention of a faculty member after October 10, the faculty member shall communicate this information to the candidate's committee immediately.
3. All information gathered by the committee pursuant to paragraphs (1) and (2) above shall first be given to the candidate in sufficient time to permit a response. The information and response will then be included in the candidate's file and the faculty will be notified of the inclusion.

F. Faculty Meeting, Decision, and Report

1. No later than November 30, a meeting shall be held for decisions on each candidate. The candidate will have the opportunity to make a statement and the faculty will have an opportunity to question the candidate. Then, in the absence of the candidate, the faculty will hear a report from the candidate's committee, and will have an opportunity to discuss the candidate's statement and response to any written questions. All discussion shall be limited to information in the file or addressed in the written questions.
2. Faculty members will vote on each of the questions of reappointment, promotion, or tenure relevant to the particular candidate by signed, written ballot. Faculty members must also include a statement of reasons supporting their vote on each question.
3. Eligibility to vote:
  - 8) With respect to reappointment, promotion, and tenure actions, only tenured faculty

members (excluding the Dean) shall vote. A favorable majority vote of those voting, not counting abstentions, will establish that the candidate has met the applicable standards.

- 9) With respect to initial faculty appointment actions, all tenured and tenure-track faculty members (including the Dean) shall vote.
4. The FPAC shall count the ballots, distribute the results of the vote, and make the ballots available for review by all faculty members.
5. On behalf of the faculty, the FPAC shall prepare a final written report of the faculty votes on each individual candidate. This report, along with the Dean's independent recommendation, shall be provided to the University according to the University's procedures.
6. By a two-thirds vote of those eligible under Section 2.2.04(F)(3)(a), the Law School Faculty can stay the Procedure in Section 2.2.04 for good cause.

## **2.2.05 Procedure for Evaluation of Visiting and Part-time Faculty Members**

### **A. Evaluation of Visiting Faculty Members**

The FPAC will coordinate the evaluation of visitors who are being considered for a tenure-track appointment. The FPAC will arrange for evaluation of teaching, scholarship, and service. The decision as to appointment will be made by the faculty and the Dean in the context of the faculty appointments process, and the timing of the decision will be coordinated with the Faculty Appointments Committee.

### **B. Evaluation of Part-Time Faculty Members**

The FPAC will coordinate the evaluation of the teaching of each part-time faculty member (including adjuncts). Each part-time faculty member will be evaluated in the first year of teaching and periodically thereafter. The FPAC will arrange for further evaluations and consultations as necessary and report the results to the Faculty and the Dean. The decision to reappoint will be made by the Dean.

## **2.3 Rules for Faculty Dismissal Proceeding**

### **Statement of Purpose**

This procedure is adopted by the faculty of the Capital University Law School to establish a fair method of determining whether or not grounds exist for the dismissal of any non-tenured member of that faculty and whether or not grounds, other than financial exigency, exist for the dismissal of non re-appointment of any tenured member of that faculty. It is the intention of the faculty that the rules set forth be construed consistent with the concept of procedural due process. Toward that end, all questions of interpretation shall be resolved in favor of fairness to the subject faculty member.

It is the further intention of the faculty that the procedure set forth shall be conducted in a manner commensurate with the professional standards befitting a faculty of law. The procedure is not intended to be adversary in nature; rather, the function of the procedure shall be to ascertain the truth or falsity of any allegations through a fair and informal fact-finding process.

### **Rules of Procedure**

#### **2.3.01 Initiation of Hearing Process**

- A. The Dean of the Capital University College of Law (Dean) or three members of the full-time faculty of said College of Law may initiate the hearing process hereinafter set forth by presenting to the faculty, at any meeting of the faculty, a Bill of Particulars setting forth the factual allegations alleged to constitute grounds for the dismissal of the subject faculty member (member) and a list of persons having information relative to said allegations and any relevant documents.
- B. Immediately upon receipt of said Bill of Particulars and list, the faculty shall resolve itself into a hearing committee, constituted in accordance with these rules, and said committee shall immediately set a date, not less than 20 days thereafter, for the hearing required by these rules, and shall direct the Dean to notify the member of said hearing by certified mail, return receipt requested, enclosing therewith the Bill of Particulars and any exhibits appended thereto together with a copy of these rules and the Faculty Statute. Said hearing shall be conducted on the date so established, provided notice thereof is received by the member no less than 14 days prior to the date set for the hearing.

#### **2.3.02 Hearing Committee - Membership**

- A. The hearing committee (committee) shall consist of all full time members of the faculty except any members making recommendations of dismissal, faculty members who disqualify themselves because of an interest in the outcome of the hearing, and faculty members who are successfully challenged for cause. Challenges for cause may be raised only by member and shall be heard by the presiding officer who shall grant the challenge only in instances where he determines that it is probable that the hearing committee member will not be able to decide the case fairly. Decisions of the presiding officer may not be appealed to the hearing committee. Examination of members of the hearing committee for determining challenges shall be conducted only by the presiding officer.
- B. The Dean, when otherwise disqualified, shall be permitted to attend all meetings of the committee due to his duty to make an independent recommendation to the President under the Faculty Statute.
- C. The presiding officer of the committee shall be the senior member of the faculty on the committee, or if that senior member declines or is unable to serve then the committee shall elect a presiding officer.

### **2.3.03 Hearing Committee - Function**

- A. The Hearing Committee shall ascertain the truth or falsity of all allegations presented in the Bill of Particulars.
- B. The Hearing Committee shall determine if the allegations found by it to be true constitute grounds for dismissal or non-reappointment of the member.
- C. The Hearing Committee shall present its findings, in writing, to the faculty.

### **2.3.04 Conduct of Hearing**

- A. Counsel

Member, the person(s) bringing charges, and the hearing committee may be represented by counsel who shall have the right to examine witnesses, apply for rulings or procedure and evidence, comment on the evidence and perform all other functions usually associated with full right of representation by counsel.

- B. Witnesses

1. All witnesses shall be called by the committee. The committee shall first hear witnesses provided in the list accompanying the Bill of Particulars.
2. The member shall, no later than (5) days prior to the hearing date, present the presiding officer with a list of any witnesses and any documents relative to the hearing. The committee shall call

- any witnesses so listed.
3. The committee may call any further witnesses it feels necessary to the inquiry.
- C. Examination of Witnesses
1. All witnesses shall be examined by the committee or its counsel.
  2. The member or his counsel shall be entitled to examine all witnesses.
  3. The person(s) bringing charges or his counsel shall be entitled to examine all witnesses.
- D. At the request of any committee member, the member, or the persons(s) bringing charges, there shall be a separation of witnesses, provided however that the member or the Dean shall not be excluded from the hearing.
- E. The rules of evidence shall not apply at the hearing, except for rules regarding relevancy, and the exclusion of hearsay statements which would be fundamentally unfair to the member. All rulings, including pre-hearing rulings, with regard to order of examination of witnesses and evidence shall be made by the presiding officer. The committee may on motion of any committee member overrule the presiding officer by the vote of two-thirds (2/3) of its members. Rulings of the presiding officer on challenges for cause may not be overruled.
- F. A verbatim recording of the hearing shall be made by electronic or other means, as the committee shall direct. All costs involved in recording of the hearings shall be borne by the Law School. If a member desires a written transcript, it shall be prepared at his expense.

### **2.3.05 Deliberations**

- A. Upon the conclusion of the hearing, the committee shall immediately deliberate. No person other than committee members shall participate in said deliberations and no record thereof shall be made. In its deliberations the committee shall determine the truth or falsity of each allegation contained in the Bill of Particulars, by a secret ballot, and a simple majority shall determine said truth or falsity.
- B. If the committee shall determine any of said allegations to be true, it shall ballot secretly on the question of whether said true allegations, either collectively or individually, constitute grounds for dismissal. The result of such balloting shall be reported to the faculty as the recommendation of the committee.

### **2.3.06 Report to Faculty and Faculty Action**

- A. The committee shall report, in writing, its findings with regard to the truth or falsity of each item contained in the Bill of Particulars and its recommendation on the question of grounds, to the faculty within ten days following the conclusion of the hearing. The faculty shall immediately

set a date, not less than 20 days thereafter, for hearing on the committee report, and shall direct the Dean to notify the member of said hearing by certified mail, return receipt requested, enclosing with said notice a copy of the hearing committee report. Said hearing shall be conducted on the date so established, provided notice thereof is received by the member no less than fourteen (14) days prior to the date of said hearing.

- B. For purposes of receiving the hearing committee report and taking action thereon all members of the faculty, except those who disqualify themselves because of an interest in the outcome of the matter, shall be entitled to participate in faculty meetings.
- C. The faculty shall accept the findings of fact of the Committee, unless a majority thereof feels that additional inquiries should be made with regard to any finding of fact adverse to the member, in which event the Committee shall conduct further hearings pursuant to these rules.
- D. Briefs on the question of grounds may be submitted to the faculty by the member, the person(s) bringing the charge and the hearing committee through its chairman no less than five (5) days prior to the date of said hearing on committee report. An original and 25 copies shall be submitted to the secretary of the Law School faculty. Oral commentary may be presented at the hearing on the committee report not to exceed forty-five minutes by member, 30 minutes by person(s) bringing charges and 30 minutes by chairman of hearing committee.
- E. The persons entitled to be represented by counsel before the hearing committee shall be entitled to representation by counsel before the faculty.
- F. The faculty, upon finding grounds for dismissal to exist, shall make its recommendation thereon to the President, through the Dean, who shall separately make his recommendation to the President.

### **2.3.07 Quorum**

The committee shall conduct no business without the continuing presence of a quorum, which shall constitute two-thirds (2/3) of the members eligible under these rules. If any member is not present throughout the proceedings, he shall not take part nor vote in the Committee's deliberations.

## **2.4 Guidelines for Visiting Scholars<sup>1</sup>**

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<sup>1</sup> A visiting scholar is defined, for these purposes, as someone who does not have teaching responsibilities at Capital.

### **2.4.01 Goals**

Capital takes pride in being a service-oriented, friendly and open law school and therefore encourages students, staff and faculty to be friendly, open and receptive to visitors. Capital recognizes that granting access to its facilities is meant to benefit both the visitor and the community at Capital. Therefore, care should be taken before accepting or soliciting a visiting scholar, to determine that the anticipated benefits may be feasibly achieved (in order to be fair to both the potential visitor and the Capital community).

### **2.4.02 Limitations**

Our ability to accommodate visiting scholars is necessarily limited by financial, administrative and other factors. Fairness requires that we disclose our limitations to a potential visitor before the final decision to visit has been made.

#### **A. Library**

One of the most important limiting factors in our ability to host a visiting scholar may be our library facilities, both in terms of personnel and collection. It is therefore important to ascertain before accepting a visiting scholar that we have clearly disclosed these limitations.

1. We should determine in what area the potential scholar would like to do research, and evaluate what resources we have in our collection to accommodate such research.
2. We should be clear that the primary responsibility of the library staff is to serve the students and faculty; however, they will provide assistance to visitors as these commitments allow.
3. We should be clear that librarians at Capital do not perform research for any group they serve. Instead, they provide access and assistance for individuals engaged in their own research.
4. We should be clear that we cannot provide access to general non-legal materials, or reference resources from other schools or libraries.
5. We should be clear that we cannot provide visitors with the ability to utilize inter-library loan arrangements.
6. In appropriate circumstances (e.g. when a potential scholar wishes to work in the following areas) we should disclose the limitations of our collection of foreign law materials:

- a. We have a meager collection in the area of international law.
  - b. We have an extremely modest collection of comparative law materials.
  - c. We should indicate that almost all of our materials are English language versions.
7. We should disclose that contractual limitations preclude offering visitors access to LEXIS and WESTLAW computer services.

**B. Other Resources and Support**

We should be clear with any potential visitor that we cannot provide secretarial or ministerial services, a private office, or a computer.

**C. Language Concerns**

- D. If a potential scholar who wishes to visit does not have great facility with the English language, we should make clear that most of the students, staff and faculty speak primarily English. Further, we need to be clear that Capital is not equipped to provide interpreters.

We presume that clear communication is necessary to achieve the goals of any visiting scholar. Therefore, we should ascertain in advance of the final offer to visit, whether there exist language barriers significant enough to make the achievement of the scholar's goals impossible or unlikely.

**2.4.03 Procedure**

Access by all persons to Capital University Law and Graduate Center is a privilege and not a right. Our goal is to provide access to the extent it does not negatively impact our ability to serve those constituencies to which we are already obligated.

- A. Those wishing to be designated visiting scholars may make a request for such access to Capital in writing to the Dean.
- B. The Dean may also issue institutional invitations to potential visitors.
- C. The Dean, pursuant to these guidelines, may grant a visitor:
  1. permission to study law in the library, or
  2. permission to attend classes (with faculty consent), or
  3. other rights and privileges appropriate to the occasion
- D. When a visiting scholar has difficulty with the English language, Capital will take extra steps in

order to facilitate the realization of the goals stated above. We will:

1. determine that there is a faculty member willing to be an academic mentor to the visitor (that faculty member should be one whose area of intellectual curiosity involves the subject being studied by the visitor), and
  2. determine that there is a faculty member willing to be an administrative mentor to the visitor in order to help with social and cultural contacts
  3. determine whether these mentors should be available to all visitors
- E. Prior to granting permission for a scholar to visit, the Dean, with the help of the Director of the Institute for International Legal Studies will:
1. determine in advance that sufficient Capital resources exist in the following areas:
    - a. library
    - b. personnel
    - c. space
    - d. academic mentor, where appropriate
    - e. administrative mentor, where appropriate
  2. have a discussion with the potential visitor concerning the limitations discussed above, as they apply specifically to the individual
- F. After granting permission for a scholar to visit, the Dean will circulate a memo announcing the forthcoming visit to the law school community. It should include biographical and other general useful information about the visit. The distribution of this information is reflective of the faculty commitment to host and encourage visitors. It is also designed to encourage and facilitate the faculty's effort to make the visit a pleasant and worthwhile experience for the visitor and the law school community.

## **2.5 Non-Tenure Track Clinical, Legal Writing Bar Studies, and Academic Success Professors**

### **2.5.01 General Policy**

Renewable long-term contract standards are designed to afford to full-time clinical, legal writing, bar studies and academic success teachers a form of security of position reasonably similar to tenure. This includes participation in Law Council meetings, committees, and other

aspects of law school governance in a manner reasonably similar to other full-time faculty members. In applying these standards, candidates should be judged in terms of their respective responsibilities.

## **2.5.02 Appointment, Reappointment, and Long-Term Contract Standards**

### A. Introduction

2.5.02.1.1 Law school appointment, reappointment, and long-term contract considerations are primarily a matter for determination by members of the law school faculty. Except in rare cases for compelling reasons, non-tenure-track faculty appointments, reappointments, and long-term contract actions will not be made over the opposition of a majority of those law school faculty members entitled to vote under Section 2.5.04(F)(3). Long term-contracts for Professors of Clinical Studies, Legal Writing, Bar Studies and Academic Success will be five years.

The reappointment and long-term contract standards and procedures are a part of the development of a law school faculty and are not dependent on numerical limits on how many persons can hold a particular rank or tenure. Reappointment and the granting of long-term contracts are independent decisions.

Reappointment and long-term contract decisions are based on the following: (1) teaching effectiveness; and (2) university, professional, and community service. Although no absolute quantitative values can be assigned to these two categories, teaching effectiveness weighs more heavily than does university, professional, and community service.

### B. Definitions and Explanation

1. Teaching effectiveness. Teaching effectiveness means teaching that is thoughtful, provocative, and effective.

Teaching effectiveness will be evaluated (based primarily on peer review) by considering the following factors: depth of understanding of the subject, legal issues, evidentiary issues, and local practice; ability to stimulate interest and thinking among students; ability to identify and develop pertinent ethical and policy issues; provision of sufficient feedback to students; relationship with students; and professional demeanor.

2. University, Professional, and Community Service. University, professional, and community service means contributions to the university, the profession, or the community (local or national).

C. Criteria for Reappointment

Subject to the constraints on reappointment otherwise applicable to probationary employees contained in University regulations, a candidate shall be reappointed if he or she is making sufficient progress toward the achievement of receiving a long-term contract.

D. Criteria for Long-Term Contract

Unless otherwise agreed to in writing at the time of initial appointment, a faculty member may first be considered for a long-term contract during his or her fourth year of full-time law teaching at Capital University Law School. Unless otherwise agreed to in writing at the time of initial appointment, the contract tendered to a full-time clinical, legal writing, bar studies, or academic success faculty member for his or her fifth year of active employment as a full-time clinical, legal writing, bar studies, or academic success faculty member at Capital University Law School must be either a five year long-term contract or a terminal one-year contract.

A candidate shall receive a long-term contract when his or her overall record demonstrates teaching effectiveness and university, professional, and community service as defined in Section 2.5.01(B) and it appears likely that the candidate will continue to be a vital, productive faculty member throughout his or her career. Once the candidate has received a long-term contract, it is presumptively renewable. During the initial long-term contract or any renewal period, the contract may be terminated for good cause, including termination or material modification of the entire clinical, legal writing, academic success or bar studies program.

### **2.5.03 Qualifications for Faculty Appointment**

The following statement of qualifications shall serve, in light of the criteria specified in Section 2.5.01, as normal standards for new clinical, legal writing, bar studies, or academic success appointment at Capital University Law School.

A. Professor of Clinical Studies

J.D. (or LL.B.).

B. Professor of Legal Writing

J.D. (or LL.B.) or, in exceptional cases, Ph.D

C. Professor of Bar Studies

J.D. (or LL.B.).

D. Professor of Academic Success Programs

J.D. (or LL.B.).

#### **2.5.04. Procedure**

##### **A. Notice and Timing of Faculty Consideration of Personnel Actions**

1. The faculty shall consider all individual non-long-term contract faculty members for reappointment each year.
2. In order to be considered for a five-year long-term contract in an academic year, a clinical, legal writing, bar studies, or academic success faculty member must apply in writing to the Dean no later than the first day of Fall semester classes that year. The Dean shall promptly forward the candidate's application to the chair of the Faculty Personnel Actions Committee and candidate's individual evaluation committee.
3. The specific dates set for the various stages of the Procedure in the following provisions will apply unless a majority of the faculty entitled to voted under Section 2.5.04(F)(3)(a) votes to reset one or more of the dates. If a date specified in the following provisions falls on a weekend or holiday, the date of the next business day will be substituted.

##### **B. Faculty Personnel Actions Committee**

The Faculty Personnel Actions Committee (FPAC), appointed pursuant to Section 2.2.04(B), shall administer the reappointment and long-term contract process in the same manner as it administers the reappointment, promotion, and tenure process for tenured and tenure-track faculty.

##### **C. Individual Evaluation Committees**

1. An individual evaluation committee shall be appointed for each full-time clinical, legal writing bar studies or academic success faculty member who is not on a long-term contract. Each committee shall consist of two persons, including one person who has a long-term contract. The committees will operate under the general administrative supervision of the FPAC.
2. Members of the evaluation committees must be tenured faculty members or non-tenure track professors who have received a long-term contract. They shall be appointed by the Dean in consultation with the candidate to insure that all members are acceptable to the candidate.
3. The evaluation committee for each candidate will be appointed at the beginning of the fall semester of the candidate's first year and will continue until the candidate either leaves the law school or receives a long-term contract. Membership on the individual evaluation committee will change only (1) when a

member of the committee leaves the law school, goes on leave or sabbatical, or resigns from the committee; or (2) when the Dean, after consultation with the candidate, decides that a member should be replaced.

4. Each individual evaluation committee will conduct a thorough and ongoing review of the accomplishments of its candidate as to all factors relevant to any upcoming personnel action. This review will include:
  - a. class evaluations (which may be made by faculty members not on the committee) or evaluations of other activities for candidates not primarily engaged in classroom teaching. Ordinarily, these evaluations should occur every semester until the candidate receives a long-term contract; and
  - b. assessment of public service, bar, university, and law school activities.

D. Availability of Files and Notice of Questions and Concerns

1. In August of the fall semester during which clinical, legal writing, bar studies and/or academic success faculty members will be considered for reappointment or a long-term contract, individual evaluation committees shall begin preparing or supplementing a file on each candidate. This file will include information compiled pursuant to Section 2.5.04(C)(4); material placed in the file by the candidate, including a personal statement and information that documents his or her activities and achievements; other information requested by the faculty; student evaluations; and any additional relevant information. The file shall be made available for review by the entire Law School faculty no later than October 10.
2. Faculty members shall raise any questions regarding specific concerns, criticisms, or potential problems about each candidate's readiness or fitness for the proposed personnel action when necessary to give the candidate notice and an opportunity to prepare a response. These questions must be signed and must be submitted to the chair of the candidate's individual evaluation committee in writing by October 31. The chair, in conjunction with the chair of the FPAC, shall distribute all such questions to the entire faculty by November 3.

E. Additional Information and Preparation for Meeting

1. If the written questions raise concerns about any candidate, the candidate and the candidate's individual evaluation committee shall attempt to collect information necessary to address those concerns. This may include student surveys and additional class evaluations by different faculty members,.

2. If relevant information about any candidate first comes to the attention of a faculty member after October 10, the faculty member shall communicate this information to the candidate's committee immediately.
3. All information gathered by the committee pursuant to paragraphs (1) and (2) above shall first be given to the candidate in sufficient time to permit a response. The information and response will then be included in the candidate's file and the faculty will be notified of the inclusion.

F. Faculty Meeting, Decision, and Report

1. No later than November 30, a meeting shall be held for decisions on each candidate. The candidate will have the opportunity to make a statement and the faculty will have an opportunity to question the candidate. Then, in the absence of the candidate, the faculty will hear a report from the candidate's committee, and will have an opportunity to discuss the candidate's statement and response to any written questions. All discussion shall be limited to information in the file or addressed in the written questions.
2. Faculty members will vote on each of the questions of reappointment or issuance of a long-term contract relevant to the particular candidate by signed, written ballot. Faculty members must also include a statement of reasons supporting their vote on each question.
3. Eligibility to vote:
  - a. With respect to reappointment and long-term contract actions, all tenured faculty members (excluding the Dean) and non-tenure-track faculty members holding long-term contracts shall vote. A favorable majority vote of those voting, not counting abstentions, will establish that the candidate has met the applicable standards.
  - b. With respect to initial faculty appointment actions, all tenured and tenure-track faculty members (including the Dean) shall vote.
4. The FPAC shall count the ballots, distribute the results of the vote, and make the ballots available for review by all faculty members.
5. On behalf of the faculty, the FPAC shall prepare a final written report of the faculty votes on each individual candidate. This report, along with the Dean's independent recommendation, shall be provided to the University according to the University's procedures.
6. By a two-thirds vote of those eligible under Section 2.5.04(F)(3)(a), the Law School Faculty can stay the Procedure in Section 2.5.04 for good cause.

**2.5.05**      **Titles**

The titles of all legal writing instructors, including those teaching drafting, will be Professor of Legal Writing. The titles of all clinical staff attorneys will be Professor of Clinical Studies. The Director of Bar Studies and the Director of Academic Support Program will also carry the titles of Professor of Bar Studies and Professor of Academic Support, respectively.