

**UNIVERSITY OF SOUTH CAROLINA SCHOOL OF LAW  
DEPARTMENT OF LEGAL STUDIES  
TENURE AND PROMOTION PROCEDURES AND STANDARDS**

*University Committee on Tenure and Promotions Approved – November 1, 2017*

**I. PROCEDURES**

- A. **Chair of Tenured Faculty.** The Tenured Faculty of the Department of Legal Studies shall elect a Professor to serve as the Chair of the Tenured Faculty. With the consent of the Dean, the Chair may delegate duties to the Associate Dean of Faculty Development. Hereinafter all references to duties performed by the Chair are duties that may be performed by the Associate Dean of Faculty Development if so designated.
- B. **Meetings of the Tenured Faculty.** By August 15 of each year, the Chair shall notify the Tenured Faculty in writing of the date of the Fall and Spring meetings on tenure and promotions. The Chair may call a special meeting on three days' written notice.
- C. **Notification.** The Chair shall provide faculty with all notices regarding tenure and promotion as are required by University policy. In the case of a jointly-appointed Candidate whose primary appointment is with the Department of Legal Studies, the Chair shall, at the beginning of the review cycle, notify the secondary unit chair that the Candidate will be applying for tenure and/or promotion.
- D. **Preparation of Files.** A Candidate for promotion or tenure shall prepare a file whose content and organization shall comply with University rules. The Chair shall assist the Candidate in any appropriate way as requested by the Candidate, but the ultimate responsibility for a persuasive file remains with the Candidate. The Chair shall ensure that the file contains all items required by the University, including the Chair's Teaching Summary, peer evaluations of teaching, and information related to outside evaluations of publications. If the Candidate has a secondary appointment with another unit, then the Chair will make the file available to the T&P Review Committee of the secondary unit as soon as the file is complete, and not less than two weeks before the vote. As soon as possible thereafter, and not less than a week before the vote, the secondary unit's T&P Review Committee will submit to the Chair a letter summarizing the assessments of the Candidate's file by that unit's eligible faculty. The Chair will add this letter to the Candidate's file no later than one week before the vote.

- E. **Deadline for Completion of Files.** All information required prior to consideration of the file by the Tenured Faculty, including, if applicable, any letters from a Candidate's secondary unit as described in I.D above, must be in the file at least one week before the meeting on the Candidate. If critical information appears within the one-week period, the Chair may reschedule the meeting.
- F. **Subcommittees for Peer Evaluation of Teaching.**
1. **Appointment.** At least 30 days before a meeting on tenure and promotions, the Chair, with the advice of the tenured faculty, shall appoint a three person subcommittee for each Candidate to conduct a peer evaluation of the Candidate's teaching.
  2. **Composition.** Only faculty members eligible to vote on a Candidate may serve on that Candidate's subcommittee. The Chair shall attempt to include on each subcommittee at least one faculty member who teaches in the Candidate's primary field.
  3. **Duties.**
    - (a) The subcommittee shall attend a representative sampling of the Candidate's classes, at times agreed upon in advance with the Candidate. If possible, each member of the subcommittee shall attend at least two classes in each of the Candidate's courses.
    - (b) The subcommittee shall review the syllabus and method of assessing student performance for each of the Candidate's courses.
    - (c) The subcommittee shall consider the Candidate's availability to advise and counsel students, to consult with them on research projects, and to provide professional guidance and support.
    - (d) The subcommittee shall prepare a written report to the tenured faculty for inclusion in the Candidate's file evaluating the Candidate's teaching, applying the criteria for accomplishment in teaching set forth in paragraph II.H.2.
- G. **Outside Review of Scholarship.**
1. The Chair shall arrange for the review of each of the Candidate's publications not previously evaluated. To be considered as a "significant publication" (see definition in II.H.4 below) under these Standards, a publication must be reviewed by at least one external evaluator. The Chair shall *solicit* at least three outside evaluations for each publication. All solicited evaluations received by the Chair shall be included in the

Candidate's file, and the file shall include a minimum of five outside evaluations.

2. The Chair shall select a list of possible evaluators after soliciting input from faculty members eligible to vote. If the Candidate has a secondary appointment with another unit, the Chair shall also give eligible faculty from the secondary unit an opportunity to propose evaluators and to comment on evaluators proposed by the Department of Legal Studies. The Candidate shall not be entitled to nominate evaluators for inclusion on this list. Whenever possible, evaluators shall be established scholars from other law schools. In appropriate cases, an evaluator who is not a law professor may be selected; however, the majority of evaluators normally must be persons with academic affiliations. Persons who have co-authored publications, collaborated on research, or been colleagues or advisors of the Candidate normally should be excluded from consideration as outside evaluators. All evaluators must be asked to disclose any relationship or interaction with the Candidate. The outside evaluators must be selected by this unit, through the above process, except as provided below for jointly appointed faculty.
3. The Chair shall make the final selection of evaluators after having solicited input from faculty eligible to vote, and, if applicable, from the Candidate's secondary unit as described in F.2 above. If the Candidate has a joint appointment, the Chair shall solicit at least one evaluation from an evaluator nominated or approved by each secondary unit.
4. The Chair shall send each evaluator a letter requesting the evaluation, a copy of these Procedures and Standards, the Candidate's c.v., the portion of the Candidate's personal statement addressing scholarship, and the publication(s) that the evaluator is being asked to evaluate. The evaluator will be asked to evaluate the Candidate's publication(s) in terms of the applicable Standards.
5. The Chair shall ask evaluators to submit their evaluations in writing, not later than ten days before the meeting. The Tenured Faculty will not consider oral comments from the evaluators or any written evaluations not received at least one week prior to the meeting of the Tenured Faculty.
6. The Chair shall ensure that a summary of the professional qualifications of each outside evaluator, or a copy of each evaluator's c.v., is included in the file, along with a copy of the letter sent to the evaluator and the letter received from the evaluator.

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, up until one week before the meeting, include in the file a written response to those evaluations.
- H. **Additional Information for Inclusion in File If the Candidate Is Director of the Law Library.** If the Candidate is the Director of the Law Library (who is a member of the Department of Legal Studies and not of the Law Library Department), then the Chair shall arrange to include in the file information regarding the Candidate's administration of the Law Library so that voting faculty may assess this criterion for this Candidate's promotion or tenure. The Chair shall do so by appointing a subcommittee of the faculty eligible to vote, and this subcommittee may interview Law Library staff and gather such other information as it deems appropriate. The subcommittee shall prepare a brief report describing the Director's administration of the Law Library, and the Chair shall include this report in the file at least one week prior to the unit vote.
- I. **Comments from Untenured Faculty Members.** At least 30 days before any meeting on tenure or promotion, the Chair shall solicit written comments about each Candidate from all full-time, untenured members of the Faculty and shall add those comments to the file after the unit vote on the Candidate.
- J. **Participation in Meetings.**
1. **Tenure Decisions.** All Tenured Faculty of rank equal to or higher than the Candidate may participate and vote.
  2. **Promotion Decisions.** All Tenured Faculty of higher rank than the Candidate may participate and vote.
- K. **Method of Voting.**
1. Faculty members shall vote by secret ballot.
  2. The inclusion of all voters in the discussion of a Candidate's file at the meeting is necessary to ensure that all voters are fully informed of all perceived strengths and weaknesses of a Candidate's file. Therefore, only faculty members present at the time the vote is called may vote. However, faculty members can participate in the meeting by conference call and vote by email. Such faculty members shall be deemed present for purposes of this paragraph.

3. Faculty members shall vote “yes,” “no,” or “abstain” on each issue presented. A favorable recommendation requires a “yes” vote by a majority of those voting “yes” or “no” and not including abstentions. If such a majority is not obtained, the vote shall constitute a negative recommendation.
- L. **Justifications of Ballots.** Faculty members who voted on the Candidate, including abstentions, must justify their votes on the ballots or by an accompanying letter. Because the Chair votes with other faculty members as part of the unit, these letters should be addressed 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.
- M. **Letters From Faculty Members Who Were Eligible to Vote but Unable To Attend Meeting.** Faculty members who were not present for the meeting must submit to the Dean an explanation of their absence and may submit letters to the Dean for inclusion in the file.
- N. **Favorable Recommendations.**
1. **Forwarding of File.** If the recommendation of the Tenured Faculty is favorable, the Chair shall forward the Candidate’s file to the Dean.
  2. **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.
- O. **Unfavorable Recommendations.**
1. A Candidate who receives an unfavorable recommendation may file an appeal in writing with the Chair within the deadlines established by the University. If the candidate elects to appeal an unfavorable recommendation, the Chair shall
    - (a) add the appeal to the file;
    - (b) distribute the appeal to the Faculty members who were eligible to vote on the candidate and invite additional letters;
    - (c) add to the file any additional letters received; and
    - (d) forward the file to the Dean.

2. 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.

- P. **Confidentiality.** All aspects of the tenure and promotion process are confidential, except that the Candidate is entitled to request and receive from the Dean, when available, copies of outside evaluations edited to remove any information which might identify the authors.

## II. STANDARDS

The following standards shall be applied in evaluating an application for tenure or promotion, including applications from jointly-appointed candidates with a primary appointment in this unit. 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.

- A. **Tenure at the Rank of Assistant Professor.** The Tenured Faculty shall not recommend tenure at the rank of Assistant Professor.
- B. **Hiring at the Rank of Associate Professor.** A Candidate may be hired at the rank of Associate Professor if the candidate has at least four semesters of "academic service" (see definition below in II.H.1) and meets the standards for promotion from Assistant Professor to Associate Professor or if the Candidate has substantial and equivalent professional experience.
- C. **Promotion from Assistant Professor to Associate Professor.** A Candidate hired at the rank of Assistant Professor who seeks promotion to the rank of Associate Professor must have completed at least four semesters of "academic service" (see definition below in II.H.1) prior to submitting the application for promotion. A Candidate seeking this promotion is not required to seek tenure at the same time. For promotion from Assistant Professor to Associate Professor, the Candidate must
  1. demonstrate "accomplishment in teaching" (see definition below in II.H.2);
  2. have published at least two "significant publications" (see definition below in II.H.4.) since beginning academic service;
  3. demonstrate progress toward establishing a national or international reputation in the Candidate's field; and
  4. have made service contributions to the Law School. Examples of such contributions include diligently discharging Law School committee responsibilities and advising Law School teams and student organizations.

If the Candidate is Director of the Law Library, the following will apply in lieu of Standard II.C.2. The Candidate must have

- (a) demonstrated “effectiveness in administration of the Law Library” (see definition below in II.H.3); and
- (b) published either at least one “significant publication” (see definition below in II.H.4) on a traditional legal topic or at least one “significant publication” relating to law librarianship since beginning academic service.

If the Candidate is a member of the Law School Clinic, the Candidate must, in addition to satisfying 1-4 above, be an active member of the South Carolina Bar in good standing and a member of the University of South Carolina School of Law Clinical Law Office. In order to seek promotion or tenure, the Candidate must be in compliance with the Rules of Practice of the Clinical Law Office. The tenured members of the Clinical Law Office must review and certify whether the Candidate is in compliance with the Rules of Practice of the Clinical Law Office.

- D. **Tenure at the Rank of Associate Professor.** A Candidate who is hired during his or her fourth year of “academic service” (see definition in II.H.1 below) or later may be recommended for tenure at the rank of Associate Professor at the time the Candidate is hired. A Candidate who was hired without tenure at the rank of Assistant or Associate Professor and who seeks tenure at the rank of Associate Professor must have completed at least six semesters of “academic service” (see definition below at II.H.1.), with at least two semesters of academic service in a full-time tenure-track position at the University of South Carolina, prior to submitting the application for tenure.

For tenure at the rank of Associate Professor, the Candidate must demonstrate consistency and durability of performance in teaching, research, and service. More specifically, the Candidate must

1. have satisfied all requirements for promotion to Associate Professor;
2. have a sustained record of “accomplishment in teaching” (see definition at II.H.2 below), as evidenced in peer and student evaluations;
3. have published at least one additional “significant publication” (see definition below at II.H.4) since beginning academic service beyond the minimum required for promotion to Associate Professor and established a record of scholarly publication indicative of a potential for continued growth as a productive scholar; and

4. Have begun to make service contributions outside of the Law School demonstrating a continuing commitment to service. Examples of such contributions 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 bona* legal representation.

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

If the Candidate is Director of the Law Library, the following will apply in lieu of Standard II.D.3. The Candidate must have:

- (a) demonstrated “effectiveness in administration of the Law Library” (see definition in 11.H.3 below); and
- (b) published either at least one “significant publication” (see definition in 11.H.4 below) on a traditional legal topic or at least two significant publications relating to law librarianship since beginning academic service. If the Director has met all or part of this standard in an earlier application for promotion to Associate Professor, the same significant publications may be used to support an application for tenure.

Publications that do not count toward fulfilling the quantitative requirement of Standard II.C.2 or II.D.3 because of their publication prior to the commencement of academic service may still be considered as additional evidence of a Candidate’s consistency and durability as a scholar.

If the Candidate is a member of the Law School Clinic, the Candidate must also demonstrate a continued commitment to clinical teaching as may be evidenced by the Candidate’s record of teaching regularly a clinical course.

- E. **Promotion from Associate Professor to Professor.** A Candidate who applies for promotion from Associate Professor to Professor normally will have completed at least four semesters of “academic service” (see definition below at II.H.1) with tenure in a full-time position at the rank of Associate Professor prior to submitting the application for promotion.

For promotion from Associate Professor to Professor, the Candidate must

1. have satisfied all the requirements for tenure at the rank of Associate Professor;
2. have demonstrated continuing consistency of “accomplishment in teaching” (see definition below at II.H.2);
3. have a record of publications of high quality and a commitment to continued productivity as a scholar;
4. have evidence of national or international stature in the Candidate’s field; and
5. have made service contributions to the Law School and outside the Law School. Examples of such contributions appear above at II.C.4 and II.D.4.

With respect to Standard II.E.3, publications may be of “high quality” even though they set forth views that are not popular or widely accepted by other scholars. Further, to fulfill the requirement of Standard II.E.3, a Candidate must have published at least two additional “significant publications” (see definition below at II.H.4) beyond that which is required for tenure at the rank of Associate Professor. If the Candidate applies for promotion more than four years after receiving tenure, a proportionally greater number of significant publications is normally expected.

If the Candidate is Director of the Law Library, the following will apply in lieu of Standard II.E.3. The Candidate must have:

- (a) demonstrated “effectiveness in administration of the Law Library” (see definition at II.H.3 below); and
- (b) published either at least one additional “significant publication” (see definition at II.H.4 below) on a traditional legal topic or at least two additional significant publications relating to law librarianship beyond that which is required for tenure at the rank of Associate Professor.

F. **Tenure at the Rank of Professor.** A Candidate may be recommended for tenure at the rank of Professor at the time the Candidate is hired. For tenure at the rank of Professor, a Candidate must have satisfied all requirements for tenure at the rank of Associate Professor and for promotion to Professor. If the Candidate was hired without tenure at the rank of Professor, the Candidate must complete at least two semesters of “academic service” (see definition below at II.H.1.) in a full-time tenure-track position at the University of South Carolina prior to submitting the application for tenure. Candidates hired without tenure at the rank of Professor must have also displayed a continuing commitment, since joining the faculty at the University of South Carolina, to “accomplishment in teaching” (see definition at II.H.2 below), scholarship, and service.

G. **Hiring a Dean with Tenure.** In the case of a candidate for the position of Dean, an offer of tenure at the rank of Professor may be made if the Candidate satisfies all requirements for tenure at the rank of Associate Professor and for promotion to Professor or if the Candidate has other professional qualifications equivalent to those required for tenure at the rank of Professor.

H. **Definitions.**

1. **Academic Service.** Unless otherwise provided, the term “academic service” refers to service in a full-time tenure-track or tenured position at the University of South Carolina School of Law; in a full-time tenure-track or tenured position at another ABA-accredited law school; or in a full-time position at a foreign law school that is equivalent to a tenure-track or tenured position at an ABA-accredited institution.

Service in other full-time teaching or librarian positions may qualify as “academic service” for purposes of these standards, if it so determined *at the time the candidate is hired* by two-thirds of all tenured faculty. Such a determination shall be made only at the request of the Dean.

For Candidates other than the Director of the Law Library, academic service requires that the candidate teach and make service contributions. For the Director of the Law Library, academic service requires that the Candidate administer the Law Library.

2. **Accomplishment in Teaching.** Accomplishment in teaching requires all of the following, which are given equal weight:

- (a) command of the subject matter;
- (b) organization of the subject matter;

- (c) use of effective classroom presentation techniques and teaching methodologies;
- (d) use of appropriate methods to assess student performance;
- (e) fulfillment of teaching responsibilities as specified in the Faculty Manual; and
- (f) availability to advise and counsel students, to consult with them on research projects, and to provide them with professional guidance and support.

If the candidate is a member of the Law School Clinic, then accomplishment in teaching shall also require effective one-on-one critique and instruction along with the exhibition and teaching of skills and values consistent with effective and responsible law practice.

The determination of whether a Candidate has demonstrated accomplishment in teaching shall be based on the following: all student evaluations conducted since the Candidate's appointment, tenure, or last promotion (except those conducted during the decisional semester); all annual peer evaluations of teaching conducted since the candidate's appointment, tenure, or last promotion, plus a peer evaluation conducted during the Candidate's decisional semester; and any additional documentation relevant to the characteristics listed above that the Candidate chooses to add to the file. If a Candidate has been disciplined by a professional licensing body, the impact of that discipline may be considered in determining whether the candidate has demonstrated accomplishment in teaching.

3. **Effectiveness in Administration of the Law Library.** Effectiveness in administration of the Law Library means competence, creativity, and initiative in overall administration of the Law Library as evidenced by effectiveness in building and organizing library collections, meeting user needs, stimulating wide use of library resources, and managing library personnel.
4. **Significant Publications.** Significant publications are law review or Internet journal articles, authored or co-authored books, major book chapters, or other equivalent works that address legal issues or interdisciplinary issues related to the law in a scholarly and detailed manner, normally with heavy annotation, and which satisfy the qualitative criteria set forth below. 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 most law reviews and journals are 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. A “publication” includes a manuscript for which the Candidate has received a written commitment for publication.

Factors that may be evaluated in determining whether a publication is a significant publication 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 and length of the publication. 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. The length of a publication may be considered as a factor in evaluating whether the publication is significant. A book may be considered the equivalent of two or more significant publications.
- (c) Reputation of the journal or publisher.
- (d) Impact. Among the indicia of a publication’s impact are academics’, judges’, practitioners’, or other professionals’ use of the publication, frequency of citation, the publication’s contribution to the Candidate’s reputation for scholarship, and its positive reception by an informed audience.

### **III. EFFECTIVE DATE AND APPLICABILITY**

**EFFECTIVE DATE.** These Procedures and Standards shall become effective on the next tenure start date, August 15 or January 1, occurring after their approval by the University Committee on Tenure and Promotion.

**APPLICABILITY.** These Procedures and Standards shall apply to candidates for promotion and candidates for tenure in accordance with the Appendix on Application.

**Adopted by the Department of Legal Studies Faculty, September 12, 2017.**

**Adopted by the Department of Clinical Legal Studies Faculty, September 12, 2017.**

**Approved by the University Committee on Tenure and Promotion, November 1, 2017.**

## APPENDIX ON APPLICATION OF PROCEDURES AND STANDARDS

### IDENTIFICATION OF APPLICABLE CRITERIA

In conformity with the Faculty Manual, criteria shall be applied as follows:

#### FACULTY HIRED AFTER THE EFFECTIVE DATE

##### UNTENURED FACULTY

Faculty members hired into a tenure-track position with a date of appointment on or after the effective date of these Procedures and Standards shall be responsible within their probationary period for meeting these tenure and promotion criteria, unless the faculty member elects to be considered under the Procedures and Standards in effect at the time of the application for tenure. For all subsequent promotions, the faculty member shall be responsible for meeting the Procedures and Standards in effect at the time of their application for that promotion.

##### FACULTY HIRED WITH TENURE

Faculty hired with tenure and with a date of appointment on or after the effective date of these Procedures and Standards shall be responsible for meeting the Procedures and Standards in effect at the time of their application for any subsequent promotion.

#### FACULTY HIRED PRIOR TO THE EFFECTIVE

##### DATE FACULTY IN THEIR PROBATIONARY PERIOD

On or after the effective date of these Procedures and Standards, faculty in their probationary period who were hired before the effective date, who are being considered for tenure, who are being considered for their first promotion after the effective date, or both, may choose to have applied to them either the Procedures and Standards in effect at the time of their application for tenure or promotion, or the Procedures and Standards that were in effect when hired. For all subsequent promotions, such faculty shall be subject to the Procedures and Standards in effect at the time of their application for promotion.

##### TENURED FACULTY HIRED ON OR AFTER JANUARY 1, 1995

Tenured faculty hired on or after January 1, 1995, who seek further promotion shall be subject to the Procedures and Standards in effect at the time of their application for promotion.

## **TENURED FACULTY HIRED PRIOR TO JANUARY 1, 1995**

Tenured faculty hired prior to January 1, 1995, who seek further promotion within five years of final approval of these Procedures and Standards, may choose to have applied to them the Procedures and Standards in effect at the time of their application for promotion or the Procedures and Standards applicable to them prior to merger of the Department of Legal Studies and the Department of Clinical Legal Studies. After the conclusion of the five-year period, the Procedures and Standards in effect at the time of their application for promotion must be applied.

## **APPLICATIONS PRIOR TO THE EFFECTIVE DATE**

Until the effective date of these criteria and procedures, faculty members who are being considered for tenure or promotion, or both, shall be evaluated under the Procedures and Standards applicable to them that were in effect when hired. These faculty members may elect to have their file considered by the tenure and promotion committee of their department as it existed before merger of the Department of Legal Studies and the Department of Clinical Legal Studies, or by the tenure and promotion committee of the reorganized unit. The file and recommendations of the committee shall then be forwarded to the Dean.

## **NOTICE TO PROSPECTIVE HIRES PRIOR TO THE EFFECTIVE DATE**

Persons offered tenured or tenure-track positions during the period between the approval of these Procedures and Standards by the School of Law faculty and the effective date of these Procedures and Standards shall be informed in the offer of appointment of both the tenure regulations currently applicable to the position and of these Procedures and Standards as approved by the faculty.

Any change in the applicable Procedures and Standards prior to the effective date of the appointment must be communicated to, and receipt acknowledged by, the new faculty member in writing and made a part of the faculty member's official record.