DATE: April 30, 2008 (attachment updated 5/6/08)

TO: Law Faculty

FROM: Michael Gottesman, Chair
Legal Research and Writing Committee

RE: Revised LRW Standards for Discussion and Vote
at the May 7, 10:00 a.m., Faculty Meeting

In April 2006, the faculty approved a multi-part proposal developed by an Ad Hoc Legal Research and Writing Committee chaired by Robin West. This year, the dean charged the Legal Research and Writing Committee\(^1\) with reviewing and updating the Standards for Hiring and Promotion of Legal Research and Writing Professors (adopted December 1997) for consistency with the proposal of the Ad Hoc Committee. Copies of the 1997 Standards and the Ad Hoc Committee Report are attached to the e-mail version of this memorandum. Hard copies of the attachments are available in the Dean’s Office.

Current Legal Research & Writing Program

As part of implementing the proposal over the last two academic years, the dean has authorized hiring seven additional Legal Research and Writing faculty to teach in the first-year program. As a result, the first-year and law fellow programs have improved considerably. First-year students no longer learn Legal Research and Writing in sections of 120 students for one hour weekly, nor do they meet for a second hour in “workshops” taught by law fellows. Instead, students take legal research and writing classes for two hours per week in class sizes of approximately 30 students taught by legal research and writing professors. Each professor teaches two small sections. Law fellows assist the faculty member as teaching assistants, while participating in a law fellow seminar in which they undertake a serious scholarly project meeting the upperclass writing requirement. The organization of the course in the part-time division is somewhat different because of the constraints of the evening schedule.\(^2\)

These changes have resulted in an enhanced teaching and learning experience for first-year students, law fellows, and professors. The hiring of additional faculty has also resulted in full time professors teaching in the writing center and advanced legal writing classes.

The Legal Research and Writing faculty no longer has a “director.” Instead, a rotating chair oversees administrative matters related to the program. Faculty members are not required to follow a uniform syllabus; instead, they are free to innovate and develop their own course as long as it comports with the core legal research and writing curriculum.

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\(^1\) Members of the 2007-2008 Legal Research and Writing Committee are: Michael Gottesman (chair), Richard Diamond, Frances DeLaurentis, Diana Donahoe, Carol O’Neil, Robert Stumberg, and students Nicky McMillan and Shayla Kay Parker.

\(^2\) In the part time division, students meet with a faculty member in groups of 65, twice a week, for one hour, from 7:55 - 8:50 p.m. There are two faculty members assigned to the part-time division.
Revisions to the Standards

The changes in the LRW program and the need for clarification of some of the provisions of the 1997 Standards prompted the following revisions.

A. Procedures for Hiring and Promotion

The 1997 Standards established the following sequence of contracts for LRW faculty members. They are hired by the Dean, upon recommendation of the LRW Committee, as Associate Professor of LRW on a one-year contract, which the Dean may renew twice. They are then eligible for consideration for a three-year contract as Associate Professor of LRW, which must be approved by faculty vote. They then become eligible for consideration for a seven-year contract as Professor of LRW, which must be considered by the Rank & Tenure Committee and then voted upon by the faculty. This contract can be renewed for successive seven-year contracts, each time with consideration by the Rank & Tenure Committee and vote of the faculty.

The revised standards preserve the basic sequencing of contracts (1-1-1-3-7-7...), but with several procedural changes. They are described here in descending order of importance:

(1) While the role of the Rank & Tenure Committee and the faculty are preserved with respect to the award of an initial seven-year contract, renewals of seven-year contracts may be approved by the Dean, without the need for Rank & Tenure Committee or faculty consideration and vote. Those bodies will become involved only if the Dean decides against renewal of a seven-year contract, as the candidate for renewal will then be entitled to seek a faculty vote on renewal. This change is proposed because the 1997 Standards were ambiguous and it is anticipated that renewals of seven-year contracts ordinarily will be uncontroversial (the candidate having served for thirteen years by that time and been approved by the faculty twice already). It is an unnecessary burden on the candidate, the Rank & Tenure Committee, and the faculty to devote extensive time to what is likely to be a pro forma decision. (See Sec. 4(c)).

(2) The revised standards provide, for the first time, a procedure for advanced lateral appointments to a three-year or seven-year contract. This procedure is to be implemented only in “exceptional circumstances,” and will afford the opportunity to attract very experienced LRW professors from other law schools. (See Sec. 5).

(3) With respect to entry level hires, the revised procedures provide that, in exceptional circumstances, the Dean may offer an initial contract of two or three years, rather than one. This is to enable the hiring of a candidate who would be unwilling to move to DC without the assurance of more than a single year of employment. (See Sec. 1(a)).

(4) The Dean is authorized, in exceptional circumstances, to defer for a year consideration of a candidate for a three-year or seven-year contract or a renewal, and to award an additional one-year contract for that year. This is to protect LRW faculty members who may, because of illness or other exigent circumstance, be unready for consideration for the next level without the extra year. (See Sec. 1(e)).

(5) In the case of LRW faculty who are not approved for a three-year or seven-year contract, the Dean is accorded discretion to offer a one-year terminal contract. (See Secs. 3(b)(3) and 4(d)).
B. Standards for Hiring and Promotion

The 1997 Standards did not give clear guidance on the scholarship requirement for award of a seven-year contract. The revised standards seek to clarify the standards so that they comport with practices established in previous reviews by Rank and Tenure Committees. Under the 1997 Standards, a candidate’s writings “may be partially or entirely in the form of curriculum design, problem development, professional papers, materials used for law fellows, studies, and pedagogical development.” The revised standards, while recognizing that “the content and format of [the scholarship] may differ from that produced by candidates for the tenure-track faculty,” contains a new definition of qualifying scholarship: “legal research and writing scholarship, scholarship on pedagogy, and traditional scholarship. LRW faculty writing may be partially in the form of curricular innovation.” (See Sec. 6(b)).

C. Codification of Existing Protections for LRW Faculty

The 1997 Standards contained no provisions dealing with LRW faculty’s role in faculty governance, the employee benefits available to LRW faculty, or seniority protections in the event of a reduction in force. The revised Standards codify (but do not change) existing practices with respect to the role of LRW faculty in faculty governance (See Sec. 7), and with respect to the employee benefits they receive (See Sec. 8). There has been no practice respecting protection in the event of reductions in force, for no such reductions have occurred. The revised standards adopt the protections that were afforded to clinical faculty before the transition of clinicians to tenure track (See Sec. 9).

Attachments
Standards for Hiring and Promotion of Legal Research and Writing Professors

(Technical amendment to 9(b) added May 6, 2008)

1. Overview of hiring and promotion. The Law Center hires and promotes professors who teach legal research and writing (LRW) on a “contract track” that has several stages:

   a. Associate Professor of Legal Research and Writing – first three years
      (1) Initial hire – Typically, the initial hire is a one-year contract offer from the Dean at the rank of Associate Professor of LRW (hereafter, “associate professor”). In exceptional circumstances, the Dean may offer a two- or three-year contract. (sec. 2)
      (2) Renewal – The Dean may renew a one- or two-year contract up to a maximum of three years, including the initial contract.

   b. Associate Professor of Legal Research and Writing – three-year contract
      After the individual’s first two years, the Dean may ask the Legal Research and Writing (LRW) Committee to evaluate an associate professor and recommend whether the faculty should vote on promotion to a three-year contract at the associate level. (sec. 3)

   c. Professor of Legal Research & Writing – seven-year contract
      Promotion – After a three-year contract, an associate professor is evaluated, and the faculty votes on promotion to the rank of Professor of Legal Research and Writing (hereafter, “professor”) with a seven-year appointment. (sec. 4)

      Renewal – The Dean may renew a seven-year appointment. If the Dean does not renew a seven-year appointment, the professor is entitled to a faculty vote on renewal. (sec. 4(d))

   d. Advanced lateral hire – three-year or seven-year contract
      In exceptional circumstances, a lateral candidate can be evaluated, and the faculty votes on a lateral hire with a three-year or seven-year appointment. (sec. 5)

   e. All stages – deferred evaluation
      At the request of a candidate and based on exceptional circumstances, the Dean may defer evaluation or renewal and provide in the interim an additional one-year contract.

2. Associate Professor of Legal Research and Writing – initial hire

   a. Standard. A candidate for initial hire as an associate professor must show promise that he or she is likely to meet the standards for promotion to the rank of professor (sec. 6).

   b. Evaluation. The LRW Committee evaluates a candidate for initial hire. If the committee recommends a candidate, the Dean may offer an initial contract.

   c. Renewal. The Dean must evaluate and decide whether to renew an initial contract for a maximum of three years, including the initial contract.
3. **Associate Professor of Legal Research and Writing – three-year contract**

   a. **Standard.** An associate professor seeking promotion to a three-year appointment must show promise that he or she is likely to meet the standards for promotion to the rank of professor (sec. 6). Evaluation for this standard will be based on the quality of the person’s teaching and original teaching materials, on service, and character, integrity and collegiality. While not required, candidates for promotion are encouraged to provide plans and progress on scholarship.

   b. **Promotion**

      (1) After the individual’s first two years, the Dean may ask the LRW Committee, with participation by the Associate Dean for Academic Administration, to evaluate an associate professor for promotion to a three-year appointment in the fall of the third year.

      (2) The associate professor being considered for a three-year appointment will submit a memorandum to the LRW Committee that explains how she or he shows promise in each of the areas covered by the standards.

      (3) If the committee recommends in favor of promotion, the faculty must vote in the fall of the third year on whether to offer a three-year appointment. If the associate professor is not awarded a three-year appointment, then the Dean may offer a final one-year renewal instead.

4. **Professor of Legal Research and Writing – seven-year appointment**

   a. **Standard.** An associate professor seeking promotion to professor with a seven-year appointment must demonstrate that he or she meets the standards for the rank of professor (sec. 6). The associate professor must submit the following information:

      (1) a detailed resume;

      (2) a copy of all written material, published and unpublished, that the candidate wants the committee to evaluate; and

      (3) a list of people inside or outside of the Law Center whom the candidate wants the committee to consult as an evaluator.

   b. **Promotion**

      (1) The Rank and Tenure Committee, with participation by the Associate Dean for Academic Administration, must evaluate a candidate for promotion to professor in the fall of the third year of a three-year appointment. As part of the evaluation process, the committee must:

         (a) Solicit evaluations of the candidate’s teaching. The committee must assure the confidentiality of evaluations, unless the evaluators waive confidentiality.

         (b) Furnish to the candidate a list of possible outside evaluators, including the names of those whom the committee will consult. The committee must give the candidate an opportunity to indicate why the views of any person should be disqualified for reasons of personal or professional prejudice.

         (c) Interview recent students of the candidate.

      (2) If the committee recommends in favor of promotion, the faculty must vote in the same fall semester on whether to offer a seven-year appointment at the rank of professor.

   c. **Renewal.** For renewal of a seven-year appointment of a professor, the Dean must evaluate and decide whether to renew the seven-year appointment of a professor in the spring semester of the fifth year of the appointment. If the Dean decides not to renew, he or she must explain the reason for the decision. If the professor wishes to seek renewal nonetheless, the Rank and Tenure Committee must evaluate the professor during the sixth year of the appointment. The committee must report and the faculty must vote as provided under paragraph 4.b.

   d. **Option for one-year contract.** In exceptional circumstances, the Dean may offer a single one-year contract to any professor whose appointment is not renewed.
5. **Advanced lateral hires.** In exceptional circumstances, a lateral candidate can be evaluated for either a three-year or a seven-year appointment, and the faculty votes on whether to offer the appointment.

   a. **Three-year appointment**
      (1) A candidate for lateral hire with a three-year appointment must demonstrate that he or she is likely to meet the standards for promotion to the rank of professor (sec. 6).
      (2) The LRW Committee, with participation by the Associate Dean for Academic Administration, must evaluate a candidate for lateral hire with a three-year appointment.
      (3) If the committee recommends in favor of a lateral hire, the faculty must vote on whether to offer a three-year appointment.

   b. **Seven-year appointment**
      (1) A candidate for lateral hire with a seven-year appointment must demonstrate that he or she meets the standards for the rank of professor (sec. 6).
      (2) The LRW Committee, with participation by a member of the Faculty Appointments Committee, must evaluate a candidate for lateral hire with a seven-year appointment. As part of the evaluation process, the committee must:
         (a) Solicit evaluations of the candidate's teaching. The committee must assure the confidentiality of evaluations, unless the evaluators waive confidentiality.
         (b) Furnish to the candidate a list of possible outside evaluators of teaching and writing, including the names of those whom the committee will consult. The committee must give the candidate an opportunity to indicate why the views of any person should be disqualified for reasons of personal or professional prejudice.
      (3) If the LRW Committee recommends a lateral hire with a seven-year appointment and the Dean concurs, the Rank and Tenure Committee must evaluate the candidate for faculty rank as provided in paragraph 4.b(1).
      (4) If the LRW Committee recommends in favor of a lateral hire, and the Rank and Tenure Committee concludes that the candidate merits the rank of professor, the faculty must vote on whether to offer a seven-year appointment at the rank of professor.

6. **Standards for the rank of professor.** A candidate for the rank of professor must satisfy each of four standards outlined in this section: teaching, writing, service and integrity. The standards apply to hiring, promotion and renewal of appointments.

   a. **Teaching.** Professors who teach legal research and writing must demonstrate a capacity and a commitment to explain, to inspire, and to challenge the minds of our students, and to develop legal skills. Within the first year LRW course, faculty must teach all elements of the core curriculum at a minimum. See Core Curriculum (2008) and any subsequent amendments to the Core Curriculum.

   b. **Writing**
      (1) **Writing - general.** LRW faculty must produce high-quality written work, although the content and format of that work may differ from that produced by candidates for the tenure-track faculty.
      (2) **Nature of writing.** LRW professors must produce scholarship, which could include legal research and writing scholarship, scholarship on pedagogy, and traditional scholarship. LRW faculty writing may be partially in the form of curriculum innovation.
      (3) **Quality and quantity.** LRW faculty must demonstrate an active, inquiring, insightful, and intellectually curious mind that indicates that the writer continually strives for personal and intellectual growth and development. The quantity of formal writing may be somewhat less than that expected of members of the tenure-track faculty, but high-quality writing is still a requirement at this senior level.
c. **Service.** LRW faculty must devote substantially all of their time to the Law Center and the University. In addition to teaching and writing, this includes committee work and attending and participating in faculty meetings. In addition, the Law Center recognizes and encourages service to the community and the profession.

d. **Character, Integrity, and Collegiality.** Candidates must demonstrate character, integrity and collegiality.

7. **Faculty governance**

   a. **Faculty meetings**

      (1) After the initial hire, an associate professor who has not been promoted to a three-year appointment by faculty vote may attend and participate (but not vote) in faculty meetings, except that he or she may not attend, participate or vote in meetings on the following: hiring for the tenure track, tenure, promotion to full professor, award of a three-year appointment, and award of a seven-year appointment.

      (2) An associate professor who has been promoted to a three-year appointment by faculty vote may participate as a voting member in all faculty meetings, except that he or she may not participate or vote in meetings on tenure, promotion to full professor, or award of a seven-year appointment.

      (3) A professor may participate as a voting member in all faculty meetings, except that he or she may not participate or vote in meetings on tenure.

   b. **Faculty affairs.** In all other respects, LRW faculty members participate in faculty affairs and governance in the same way as members of the tenure-track faculty.

8. **Benefits.**

   LRW faculty members receive the same employee benefits as other members of the faculty.

9. **Seniority rights**

   a. **Order.** In the case of a reduction in the size of the LRW faculty, the dean may only terminate LRW appointments as follows:

      (1) in the order of lowest to highest rank, and within rank, lowest to highest seniority, and

      (2) with at least six-months' notice.

   b. **Presumption.** If a LRW professor is favorably evaluated by the Dean or faculty under section four, then the Law Center may cancel or deny renewal of a seven-year appointment on the ground of reduction in force only if the faculty votes to reduce the size of the LRW faculty.