



## GEORGETOWN UNIVERSITY LAW CENTER - Office Memorandum

**DATE:** April 15, 2009

**TO:** Faculty

**From:** Graduate Programs Committee

**Re:** Proposal for Faculty Review of LL.M. Faculty

The Graduate Programs Committee is proposing that the faculty adopt a structure for faculty review of a few full-time, non-tenure track faculty who would teach in the LL.M. program. A version of this proposal was circulated to the faculty in March and was discussed at a faculty brown bag on March 23. This proposal incorporates suggestions from that meeting.

**Background.** Georgetown's LL.M. program is one of the largest and most diverse in the country. Indeed, with about 500 students, the LL.M. program is comparable in size to many law schools. We offer six different degrees and five specialized certificates. The largest degree program is Taxation which currently has about 250 students. The LL.M. programs provide an important source of revenue for the school, but are also important academic programs in their own right. The tax program is widely regarded as being one of the top two or three in the nation and our international program is increasingly viewed as one of the premier programs in the world. For example, a recent article in *El Mundo* in Spain listed Georgetown as being among the top ten LL.M. programs in the world. Similarly, last November the *Financial Times* devoted an entire section to LL.M. programs and Georgetown was one of the six programs worldwide that it featured. As a result of the program's growing reputation, the percentage of applicants we admit has been going down as the school gets more selective and our yield of admitted students has been going up.

The overwhelming majority of our LL.M. courses are taught by adjunct faculty from government, law firms, accounting firms, NGOs, and other institutions. Because of their outstanding credentials and experience, our adjunct faculty have been a real strength of the program, serving as career role models for our students and providing the kind of focused expertise that they expect to get from a graduate program. Students who enroll in programs such as the Tax LL.M. expect that many of their courses will have the kind of practice orientation that experienced lawyers can provide. Likewise, the attraction of our graduates to law firms is that they have the skills and knowledge to begin functioning quickly as practicing lawyers.

Our heavy reliance on adjunct faculty does have some drawbacks. First, adjunct professors teach almost exclusively in the evening, so there are at most ten evening time slots (5:45-7:45; 8:00-10:00). Moreover, Friday night is extremely unpopular both for students and for faculty so we need to fit most of our courses into eight time slots. This

inevitably creates numerous course conflicts. For example, this semester we offer 47 Tax LL.M. courses, and in some time slots as many as seven of these are scheduled against one another at the same time. This is less of a problem for part-time students, who will have multiple semesters to get the classes they want, but it is a significant problem for full-time students, who now comprise the vast majority of our graduate class. Full-time students expect to complete the program in two semesters and it can be challenging, and sometimes impossible, for them to get all the courses they want and need if they are limited to courses taught in the evening blocks.

The problem of course conflicts is especially acute where courses are required for a particular degree or certificate program. In the Tax program, for example, there are two required courses that all Tax LL.M. students must take. In addition, there are three additional required courses for the Employee Benefits Certificate and three additional required courses for the Estate Planning Certificate. For obvious reasons, these required courses cannot be scheduled against one another. And when these required courses are scheduled against other courses, the other courses in effect become “off limits” to a large subset of students.

The second drawback to our heavy reliance on adjunct faculty is that they are less available than full-time faculty to meet with students, supervise research papers, and provide career advice. We constantly emphasize to students the importance of writing and publication, but when students seek out professors to supervise their papers they sometimes come back empty-handed. Our adjunct professors are extremely dedicated but, although they are usually accessible by email or by phone, it is much harder for them to have office hours or engage with students outside the classroom. Of course our LL.M. students do take some courses from our full time faculty who are generous with their time to our LL.M. students, but with over 1900 J.D. students, our full time faculty cannot reasonably be expected to focus much attention on our 500 LL.M.s.

The issue of how best to accommodate full-time students has become more pressing as the number of full-time students has increased. In the Taxation program, over the last 10 years, the number of part-time students has declined somewhat and the number of full-time students has nearly doubled. Moreover, because part-time students carry about a one third course load, their impact within the class is further diminished. Thus, in terms of full time equivalents (FTEs), the entering LL.M. tax class in 2008 was less than 15% part-time students. This is not a random anomaly but results from fundamental changes in the legal marketplace and the business models adopted by law and accounting firms.

Last year when it became apparent that we were going to have the largest entering class of Tax LL.M.s in the school’s history and that this class was overwhelmingly full-time students, the Dean appointed as a full-time visiting professor Stafford Smiley, a senior tax partner from Caplin & Drysdale who had taught here as an adjunct for many years. The Office of Graduate Programs reports that his presence has been extremely beneficial for the program. He teaches five courses, all during the day, supervises papers, and meets regularly with students. This year, notwithstanding having the largest class

ever, there were many fewer complaints from students about scheduling conflicts. In addition, in light of the tight job market, students have been very appreciative of having another experienced tax practitioner easily accessible from whom they can solicit career guidance.

**Rationale for this Proposal.** Stafford was hired by the Dean as a two year visitor after consultation with the tax faculty. If his presence continues to be useful, the Dean could continue to renew his contract as a visitor. We have had “visiting” professors who have been at the school for a number of years and this practice could be carried into the LL.M. program. However, the Committee believes that it would be preferable to create a more structured process with delineated criteria, formal faculty involvement and clarity as to the rights and obligations of faculty who will teach in the LL.M. program on more than a transient basis.

The proposal set forth below is limited to faculty who would be teaching in the LL.M. program and is structured to take into account the unique needs of that program. First, the expectation is that faculty would be experienced lawyers with the kind of experience that is not duplicated by the full-time faculty and reflects the practice-oriented expertise that our students expect. Second, the primary responsibility of these faculty would be teaching and engaging with the needs of the graduate program. Third, the duration of appointments under this process should be long enough to be attractive to the type of candidate we are seeking, but short enough to be responsive to the changing needs of the graduate program. We note that in the last decade, we have stopped conferring degrees in Labor Law but have created an LL.M. in Global Health Law, and that student enrollments in various degree programs can vary over time. Fourth, while it is important to be able to maintain flexibility with appointments of a term of years that is not too long, it is also useful to the program to have faculty whose title signals some degree of permanence. For example, Albert Lauber, who is the Director of the Graduate Tax Program and teaches two graduate courses, has been here almost three years but still has the title of “Visiting Professor.” This may lead outsiders to conclude – incorrectly -- that his role in the program is temporary.

As noted above, this proposal is limited to faculty who teach in the LL.M. program. The Committee discussed whether to offer a broader proposal that addresses other visitors who are here on a long term basis, but decided against this. First, a broader proposal would be beyond the jurisdiction of the Graduate Programs Committee. Second, and more importantly, the Committee believes that different issues may be implicated when considering faculty teaching in the J.D. program.

**The Proposed Appointment Process.** With these basic principles in mind, the proposed appointment process would be as follows: <sup>1</sup> A proposed contract-track graduate

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<sup>1</sup> The Committee considered whether to model these procedures on those set forth for the Legal Research and Writing faculty, but concluded that this would not be appropriate. First, we do not believe that full-time LL.M. faculty should be eligible for seven year contracts. Instead we believe that shorter contracts with no presumption of renewal are more appropriate for the LL.M. program which is more fluid and subject to change than the J.D. LRW program. Second, the

faculty member would be appointed initially for up to two years as a Visiting Professor. In the second year of that term and at the request of the candidate and the Associate Dean for Graduate Programs, the candidate could be considered for appointment to a subsequent three year, renewable, non-tenure track position. The candidate would be evaluated by the Graduate Programs Committee which would be responsible for preparing a report and making a recommendation to the faculty. The faculty would then vote on that recommendation.

The criteria for evaluating a candidate would be as follows:

- ***Demonstrated teaching ability and engagement with students.*** The primary justification for hiring these faculty is to teach and to be a resource for our students. The expectation is that these faculty carry a significant teaching load, will hold regular office hours, and will be available not only to answer questions specifically related to their courses, but also for broader consultations with students.

- ***Service to the school and the profession.*** Faculty are expected to be active participants within the community. Service could include working with student organizations, serving on committees, participating in the work of our centers or institutes, or other service to the profession.

- ***Intellectual engagement with students, colleagues, and others.*** While there is no requirement that these faculty publish scholarship, there is an expectation that they will be intellectually engaged in the field. This engagement could be demonstrated in a number of ways including publications, participation in conferences, teaching courses at foreign universities during vacation period, active engagement with colleagues on substantive topics, or working closely with students who are seeking to produce publishable papers.

Initial appointment would be for a term of three years. Renewals would be permitted, but there would be no presumption in favor of renewal and it would be particularly important that the Graduate Programs Committee and the Dean carefully review whether the appointment was still warranted in light of possible changes in the LL.M. programs. The decision to renew would be made by the Dean following review and recommendation by the Graduate Programs Committee. Each renewal could be for a term of up to three years, but could also be for a shorter period.

**Title.** The Committee recommends that faculty appointed under this process receive the “Professor, Graduate \_\_\_ Program” (e.g., “Professor, Graduate Tax Program,” “Professor, Graduate Securities Program,” “Professor, Graduate Program in International

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focus of the graduate faculty would be on teaching and, although we would expect these faculty members to be actively engaged in their field of expertise, we do not necessarily expect them to produce scholarship. Third, we believe that because of the focus and likely duration of their time at Georgetown, we do not believe that full-time LL.M. faculty should be eligible to vote at faculty meetings.

Legal Studies”).<sup>2</sup> The Committee believes it is appropriate for people appointed through this process to begin at the level of “Professor, Graduate . . . Program” rather than “Associate Professor, Graduate . . . Program.” First, as noted above, the expectation is that the people who would be hired under this program would be very experienced lawyers such as Stafford who was a partner for 25 years at the leading tax firm in the city. Second, the review process is not structured to include a review for promotion to the professor level.

**Obligations and Perquisites of the Position.** As explained above, the primary obligation of people appointed to one of these positions would be to teach and work closely with our LL.M. students. These faculty would be expected to carry a reasonably heavy teaching load. For example, Stafford is teaching five courses this year. These faculty would be permitted to attend faculty research workshops but would not be permitted to vote at faculty meetings. They could serve on committees at the discretion of the Dean. Regardless of how long these faculty are at the school, they would not be entitled to sabbaticals or research leaves. Any request for a research assistant or funding to attend a conference would have to be approved by the Associate Dean for Graduate Programs.

**Size of this Program.** This proposal is intended to involve only a small number of people and the Committee therefore recommends that approval of this recommendation be limited to a maximum of four people. Any expansion beyond that number would require a further vote by the faculty.

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<sup>2</sup> We note that although the title contemplated for the graduate faculty (“Professor,, Graduate \_\_\_\_\_ Program”) is consistent with the current model for LR&W faculty (“Professor, Legal Research and Writing”), we believe that the programs are sufficiently different that any change in the LR&W titles would not require a change in the graduate faculty titles.