



GEORGETOWN UNIVERSITY LAW CENTER • Office Memorandum

DATE: April 7, 2014
TO: Law Faculty
FROM: Law School Rank and Tenure Committee
RE: Professors From Practice (Revised)

The Law School Rank and Tenure Committee recommends that the law faculty create a new academic title: Professor From Practice. As this memo explains, we believe that this title is an appropriate substitute for the title of Visiting Professor for faculty members not on the tenure track who have come to us from practice, supported our education mission for several years, and may remain here for some time. The Deans' Office suggested this to the Committee; we examined the proposal and recommended that the faculty adopt it by negative option. Although no faculty member called for consideration of the proposal at a faculty meeting, several thought that it raised weighty enough institutional issues that the faculty should have an opportunity to discuss it. Accordingly, the faculty will meet on May 1 and vote on this proposal. The memo explains why the new title is needed and describes how such appointments will be made. The memo also identifies five individuals whom the Dean recommends be given the title. The Dean will provide an additional report on why he believes these visiting professors should receive the title. The faculty's acceptance of the committee's recommendation will authorize the title, and the faculty then will vote on conferring the title on the nominees. We anticipate that there will be other visiting professors who merit the new title, but leave that for future nominations.

Many have recognized for a long time that it is anomalous to refer to valuable faculty colleagues not on the tenure track year after year as "Visiting Professors." The law school highly values their teaching and intellectual companionship, and does not want them to depart. But we cannot sensibly apply our appointments process for tenure-track faculty to them. While some of them produce valuable legal writing, their work tends to address current policy issues and does not aim to meet the scholarly standards set for tenure. Rather their value as educators comes from their significant legal professional experience and skill at teaching important subjects in our curriculum. Some also direct programs with tremendous educational value for our students. Typically, they will have held senior positions in important public or private legal institutions and possess specialized knowledge valuable for educating law students for contemporary practice. They bring to students advanced legal skills and judgment developed in challenging law practices, combined with a gift for teaching. Their practice experience complements the scholarly engagement of our tenured and tenure track faculty. Adjunct faculty also contribute to our education, but these full-time colleagues are more continuously engaged with our students and also contribute important administrative and programmatic service to the school.

The title of "Visiting Professor" is misleading, because these faculty members are not visiting from anywhere; Georgetown is their home institution. They are not "Adjunct Professors" because they are full-time teachers, devoting as many or more hours to their work at the Law

School than do tenured professors. Some of them find it embarrassing to be called visiting faculty, as when professional colleagues elsewhere ask where is their home institution. Moreover, Georgetown loses the prestige value of their public appearances if it does not title them as our own. Finally, these colleagues feel that the visiting title undermines the weight of their recommendations of students for jobs and clerkships.

The deans have been aware of these problems for some time and have discussed at length how to address them. They strongly feel that we need a suitable new title for these colleagues. While we may not think of them as remaining here for the rest of their professional lives, we hope and expect that they will remain here for the foreseeable future. As our curriculum evolves to prepare graduates better for legal practice, their contribution to our overall education becomes even more valuable.

We recommend that the faculty create a faculty title of “Professor From Practice.” This title recognizes their seniority, but also recognizes that their identity lies more with practice than with the scholarship of professors either tenured or on the tenure track. We propose that this title be awarded to lawyers (and, where appropriate, non-lawyers) with significant professional experience who have taught here full-time for at least three years as visitors with a high degree of success. After that point, the Dean can propose to the faculty that it award the teaching lawyer the title of Professor From Practice. We would expect that after a visit, many faculty members will know the nominee, and that he or she will have a clear record of teaching and service, as well as some publications that will attest to the quality of their analytic work. We propose a cap of seven total Professors From Practice at any one time. Each can be awarded contract terms for up to three years, which can be renewed by the Dean, upon the recommendation of a three-member ad hoc faculty committee specifying that original qualifications still are met. Professors From Practice would neither vote as faculty members nor serve on committees, although they may undertake administrative tasks as part of their contractual duties. All Georgetown faculty, of course, are explicitly guaranteed academic freedom.

The deans discussed a variety of other titles, such as “Lecturer” and “Professorial Lecturer,” but these were distasteful to teachers who “do more than lecture.” Several colleagues found an earlier suggestion, Professor of Legal Practice, confusing because many of our faculty prepare students for legal practice. We eventually concluded that “Professor From Practice” accurately conveyed their expertise and seniority, while signaling that they were not tenured faculty, similar to the title we already employ of “Professor LLM.” It should be recognized that we are not so much creating new positions, as awarding more accurate titles and seeking to treat fairly persons already contributing to our school.

The faculty authorized four positions with the title of Professors LLM in April 2009. Under that policy, the Dean can appoint such LLM faculty without the prospect of tenure and without a faculty vote. That authority has been exercised sparingly and without major problems. Two such positions already have been filled. Stafford Smiley, a distinguished tax lawyer and fine teacher, and Philip Tatarowicz, an expert in State and Local Taxation, currently hold that title. Anne Marie Whitesell, a current adjunct and respected authority on International Arbitration, will begin next year. Having contract LLM professors has proved invaluable for our graduate program and supportive of traditional academic values.

In response to our memo seeking approval of the proposal by negative option, some faculty raised questions or concerns. Georgetown wants neither to undermine tenure for law

professors nor be perceived as doing so. We do not see this new title as threatening tenure. Rather, we believe that recognizing Professors From Practice will allow Georgetown modestly to continue to protect existing tenured pathways for scholarly and clinical emphases by meeting changing curricular needs in a flexible manner. We often use visiting professors from practice both to cover courses or sections tenured faculty do not teach, needs created by tenured faculty on research leave or teaching specialized seminar, and to teach subjects that have not crystalized as subjects of scholarly development. Moreover, Professors From Practice will be few in number; the proposal limits the total number to seven. These faculty members will act as auxiliaries to tenure track faculty, as they have as Visiting Professors. The faculty can guard against inappropriate decanal conferral of such titles through faculty voting in the appointment process.

Some faculty were concerned that such appointments would be continued too readily, creating de facto lifetime appointments. The proposal now stipulates that contracts should be for no more than three years duration, and that renewals by the Dean should be based upon recommendation by a three-member, ad hoc faculty committee, which should find that continuing such an appointment meets important law school teaching needs, that the teaching needs cannot be met at this time by the appointment of a tenured or tenure track professor, and that the current Professor From Practice is an excellent teacher.

There are several current faculty with the title of Visiting Professor who could qualify to be Professor of Legal Practice. As we have said, if the faculty approves the new title, the Dean will individually nominate five candidates to the faculty at this time for the title. They are Vicki Arroyo, Andy Schoenholtz, David Stewart, Tim Westmoreland, and Brian Wolfman. A memo from Peter Byrne, Associate Dean for the J.D. Program, justifying these nominations accompanies this memo.

The Committee views this as a modest proposal that strengthens our teaching missions while extending justice to some valued colleagues.