

Seton Hall Law

Faculty Guide



APPROVED May 2019

Table of Contents

PREAMBLE	1
SECTION 1: GENERAL CODE OF CONDUCT.....	2
1.1 Association of American Law Schools Statement of Good Practices by Professors in the Discharge of Their Ethical and Professional Responsibilities.....	2
1.2 American Bar Association Standards for Approval of Law Schools	12
1.3 Policy of Seton Hall University School of Law Regarding Discrimination and Harassment	12
1.4 Policy for Investigating Faculty Complaints of Discrimination at the Law School Against the Dean and Associate Deans	14
1.5 Consensual Relationships with Subordinates	14
1.6 Policy on Drug Use	14
1.7 No Smoking Policy.....	15
SECTION 2: STANDARDS AND PROCEDURE FOR FACULTY APPOINTMENT, TENURE, PROMOTION, DISMISSAL AND TERMINATION.....	15
2.1 Tenure, Promotion and Appointments Standards.....	15
2.1.1 Procedure: Tenure and Promotion	16
2.1.2 Eligibility for Tenure and Promotion.....	20
2.1.3 Standards for Tenure and Promotion	21
2.1.4 Standards for Appointment to Faculty	23
2.1.5 Evaluations of Untenured Faculty.....	25
2.2 Non-Tenure Track Faculty Hiring and Promotion Procedure and Status	26
2.2.1 Visiting Assistant Professors and Non-Tenure Track Contract Faculty	26
2.2.1.2 Non-tenure Track Contract Faculty: General	27
2.2.2 Hiring Process for Contract Faculty.....	28
Reappointment and Promotion Process for Contract Faculty.....	28
2.3 Hiring Visiting Faculty--Lateral Hiring Process	29
2.3.1 Purpose and Goals	30
2.3.2 General Approach	30
2.3.3 Lateral Hiring Committee Composition	31
2.3.4 Guidelines for Timing	31
2.3.5 Lateral Hiring Process.....	31
2.3.6 Exception on Voting Requirement for Look-See Visitors.....	31
2.3.7 Alternate Procedure for Extraordinary Circumstances.....	32
2.3.8 Alternate Procedure for Chairs	32
2.3.9 Tenure Issues	32
2.3.10 Other Visitors	32

2.5.	Librarian Faculty Hiring and Promotion Procedure and Status.....	34
2.5.1:	General.....	34
2.5.2	Hiring Process for Librarian Faculty	35
2.5.3	Standards for Appointment and Evaluation of Librarian Faculty	35
2.5.4	Reappointment and Promotion Process for Librarian Faculty.....	36
SECTION 3: FACULTY GOVERNANCE		37
3.1	Faculty By-Laws.....	37
3.1.6	Voting Rights	41
3.1.7	Committees.....	41
3.2	Faculty Guide	45
SECTION 4: FACULTY RIGHTS AND RESPONSIBILITIES.....		46
4.1	Policy on Tenured Faculty Responsibilities and Monitoring Program	46
4.2	Policy Concerning Full-Time Faculty and Non-SHLS Professional Activities	48
4.3	Mandatory Academic Policies.....	49
4.4	Sabbatical Leaves	55
4.5	Childbearing/Primary Caregiver Policy	58
4.6	Faculty Reimbursement Policies	58
4.7	Fellows Reimbursement Policies	59
4.8	Selection of University Administrators	60
SECTION 5: FACULTY GRIEVANCE COMMITTEE RULES		60
5.1	Scope.....	60
5.2	Faculty Grievance Committee.....	61
5.2.1	General Operations.....	61
5.2.2	Case Adjudication.....	61
5.3	Pre-Complaint Procedures	62
5.4	Informal Procedures	62
5.5	Complaint Process.....	62
5.5.1	Complaints	62
5.5.2	Answer	63
5.5.3	Actions upon Receipt of the Complaint; Investigation	63
5.5.4	Interim Measures.....	65
5.6	Hearing Process.....	65
5.7	Decisions	66
5.7.1	Initial Decisions	66
5.7.2	Reconsideration of Decisions.....	67
5.7.3	Appeal to the Faculty	67

5.7.4	Service	68
5.7.5	Confidentiality	68
SECTION 5A: GRADING COMPLAINTS COMMITTEE RULES		69
5A.1	Jurisdiction	69
5A.2	Pre-Complaint Procedures	69
5A.3	Complaint Process.....	69
5A.3.1	Complaints	69
5A.3.2	Answer	70
5A.3.3	Actions Upon Receipt of the Complaint	70
5A.4	Hearing Process	71
5A.5	Decisions	71
5A.5.1	Committee Decisions	71
5A.5.2	Reconsideration of Decisions.....	71
5A.5.3	Appeal to the Faculty	71
5A.5.4	Service	71
5A.5.5	Confidentiality	71
Appendix I		72
2.4	Hiring, Reviewing and Retention of Long Term Clinical Contract Faculty	72
2.4.1	Evaluation Standards for Hiring Long Term Clinical Faculty	73
2.4.1.1	Evaluation of Lawyering.....	74
2.4.1.2	Evaluation of Teaching.....	75
2.4.1.3	Evaluation of Scholarship.....	76
2.4.1.4	Evaluation of Service to the Law School and the Profession.....	76
2.4.2	Evaluation Process	76
2.4.3	Granting a Committee Vote for All Long Term Contract Track Clinical Faculty	77

PREAMBLE

This Faculty Guide is a compilation of policies and procedures of continuing relevance to the faculty at Seton Hall University School of Law. Many have been directly adopted as faculty resolutions. Other sources include policies developed by the Law School Administration and/or the University Administration, and guidance from the Association of American Law Schools and from the American Bar Association accreditation standards. The authority to be given to each section varies by section and is to be determined by reading it and identifying its source. The substance of some sections, adopted by faculty resolution, is clearly intended to be determinative and binding, such as the rank and tenure standards. Other sections are to be guidance, such as the AALS Statement of Good Practices on the roles of law professors. Others are stated by the Law School Administration to be a Law School policy and could be altered by the Law School Administration.

This version of the Faculty Guide was compiled and re-organized in 2007-2008 from a collection of policies maintained and in some cases restated by the Associate Deans' office, with changes to provide an accessible structure and a consistent format, to delete out-of-date matters and to make corrections. It was revised again in 2019 to reflect modifications voted by the faculty to the Bylaws and other policies and to incorporate changed Law School Administration policies. It will be maintained on a webpage accessible to faculty in current form and will be reviewed regularly to make sure all relevant changes, from whatever source, have been incorporated.

This Guide does not include policies of relevance only to students (e.g., the Code of Student Conduct) or to employees and staff (e.g., the Policy for Investigating Complaints of Discrimination at the Law School against [non-faculty] Administrators and Staff Members).

November 2019

SECTION 1: GENERAL CODE OF CONDUCT

1.1 Association of American Law Schools Statement of Good Practices by Professors in the Discharge of Their Ethical and Professional Responsibilities

Source: AALS statement of Good Practices, identified as a governing document in the faculty by-laws.

Note: Section 1.1.7 (Conflict of Interest Policy) is not from the AALS Policy Statement. It was adopted by the faculty in May 2009, and supersedes the AALS Statement language previously set out in Section 1.1.3.

Note: Section 1.1.8 (Academic Freedom) is not from the AALS Policy Statement. It was adopted by the faculty in May 2010.

1.1.1 Introduction

American law professors typically are members of two professions and thus should comply with the requirements and standards of each. Law professors who are lawyers are subject to the law of professional ethics in force in the relevant jurisdictions. Non-lawyers, in turn, should be guided by the norms associated with their disciplines. In addition, as members of the teaching profession, all law faculty members are subject to the regulations of the institutions at which they teach and to guidelines that are more generally applicable, such as the Statement of Professional Ethics of the American Association of University Professors.

This statement does not diminish the commands of other sources of ethical and professional conduct. Instead, it is intended to provide general guidance to law professors concerning ethical and professional standards both because of the intrinsic importance of those standards and because law professors serve as important role models for law students. In the words of the American Bar Association's Commission on Professionalism, since "the law school experience provides the student's first exposure to the profession and . . . professors inevitably serve as important role models for students, . . . the highest standards of ethics and professionalism should be adhered to within law schools."²

Law professors' responsibilities extend beyond the classroom to include out of class associations with students and other professional activities. Members of the law teaching profession should have a strong sense of the special obligations that attach to their calling. They should recognize their responsibility to serve others and not be limited to pursuit of self-interest. This general aspiration cannot be achieved by edict, for moral integrity and dedication to the welfare of others cannot be legislated. Nevertheless, a public statement of good practices concerning ethical and professional responsibility can

¹"Statement of Good Practices by Law Professors in the Discharge of Their Ethical and Professional Responsibilities", Association of American Law Schools Handbook, adopted by AALS November, 1989, amended 2003, available at <https://www.aals.org/about/handbook/good-practices/ethics/> Accessed on March 4, 2019.

² "In the spirit of Public Service": A Blueprint for the Rekindling of Lawyer Professionalism 19 (1986).

enlighten newcomers and remind experienced teachers about the basic ethical and professional tenets-
the ethos-of their profession.

Although the norms of conduct set forth in this Statement may be relevant when questions concerning propriety of conduct arise in a particular institutional context, the statement is not promulgated as a disciplinary code. Rather, the primary purpose of the Statement--couched for the most part in general aspirational terms--is to provide guidance to law professors concerning their responsibilities (1) to students, (2) as scholars, (3) to colleagues, (4) to the law school and university at which they teach, and (5) to the bar and the general public.

1.1.2 Responsibilities to Students

As teachers, scholars, counselors, mentors, and friends, law professors can profoundly influence students' attitudes concerning professional competence and responsibility. Professors should assist students to recognize the responsibility of lawyers to advance individual and social justice.

Because of their inevitable function as role models, professors should be guided by the most sensitive ethical and professional standards.

Law professors should aspire to excellence in teaching and to mastery of the doctrines and theories of their subjects. They should prepare conscientiously for class and employ teaching methods appropriate for the subject matters and objectives of their courses. The objectives and requirements of their courses, including applicable attendance and grading rules, should be clearly stated. Classes should be met as scheduled or, when this is impracticable, classes should be rescheduled at a time reasonably convenient for students, or alternative means of instruction should be provided.

Law professors have an obligation to treat students with civility and respect and to foster a stimulating and productive learning environment in which the pros and cons of debatable issues are fairly acknowledged. Teachers should nurture and protect intellectual freedom for their students and colleagues. If a professor expresses views in class that were espoused in representing a client or in consulting, the professor should make appropriate disclosure.

Evaluation of student work is one of the fundamental obligations of law professors. Examinations and assignments should be conscientiously designed and all student work should be evaluated with impartiality. Grading should be done in a timely fashion and should be consistent with standards recognized as legitimate within the university and the profession. A student who so requests should be given an explanation of the grade assigned.

Law professors should be reasonably available to counsel students about academic matters, career choices, and professional interests. In performing this function, professors should make every reasonable effort to ensure that the information they transmit is timely and accurate. When in the course of counseling a law professor receives information that the student may reasonably expect to be confidential, the professor should not disclose that information unless required to do so by university rule or applicable law. Professors should inform students concerning the possibility of such disclosure.

Professors should be as fair and complete as possible when communicating evaluative recommendations for students and should not permit invidious or irrelevant considerations to infect these recommendations. If information disclosed in confidence by the student to the professor makes it impossible for the professor to write a fair and complete recommendation without revealing the information, the professor should so inform the student and refuse to provide the recommendation unless the student consents to full disclosure.

Discriminatory conduct based on such factors as race, color, religion, national origin, sex, sexual orientation, disability or handicap, age, or political beliefs is unacceptable in the law school community. Law professors should seek to make the law school a hospitable community for all students and should be sensitive to the harmful consequences of professorial or student conduct or comments in classroom discussions or elsewhere that perpetuate stereotypes or prejudices involving such factors. Law professors should not sexually harass students and should not use their role or position to induce a student to enter into a sexual relationship, or to subject a student to a hostile academic environment based on any form of sexual harassment.

Sexual relationships between a professor and a student who are not married to each other or who do not have a preexisting analogous relationship are inappropriate whenever the professor has a professional responsibility for the student in such matters as, teaching a course or in otherwise evaluating, supervising, or advising a student as part of a school program. Even when a professor has no professional responsibility for a student, the professor should be sensitive to the perceptions of other students that a student who has a sexual relationship with a professor may receive preferential treatment from the professor or the professor's colleagues. A professor who is closely related to a student by blood or marriage, or who has a preexisting analogous relationship with a student, normally should eschew roles involving a professional responsibility for the student.

1.1.3 Responsibilities as Scholars

A basic responsibility of the community of higher education in the United States is to refine, extend, and transmit knowledge. As members of that community, law professors share with their colleagues in the other disciplines the obligation to discharge that responsibility. Law schools are required by accreditation standards to limit the burden of teaching so that professors will have the time to do research and to share its results with others. Law schools

also have a responsibility to maintain an atmosphere of freedom and tolerance in which knowledge can be sought and shared without hindrance. Law professors are obligated, in turn, to make the best and fullest use of that freedom to fulfill their scholarly responsibilities.

In teaching, as well as in research, writing, and publication, the scholarship of others is indispensable to one's own. A law professor thus has a responsibility to be informed concerning the relevant scholarship of others in the fields in which the professor writes and teaches. To keep current in any field of law requires continuing study. To this extent the professor, as a scholar, must remain a student. As a corollary, law professors have a responsibility to engage in their own research and publish their conclusions. In this way, law professors participate in an intellectual exchange that tests and improves their knowledge of the field, to the ultimate benefit of their students, the profession, and society.

The scholar's commitment to truth requires intellectual honesty and open-mindedness. Although a law professor should feel free to criticize another's work, distortion or misrepresentation is always unacceptable. Relevant evidence and arguments should be addressed. Conclusions should be frankly stated, even if unpopular.

When another's scholarship is used--whether that of another professor or that of a student--it should be fairly summarized and candidly acknowledged. Significant contributions require acknowledgement in every context in which ideas are exchanged. Publication permits at least three ways of doing this: shared authorship, attribution by footnote or endnote, and discussion of another's contribution within the main text. Which of these will suffice to acknowledge scholarly contributions by others will, of course, depend on the extent of the contribution.

A law professor shall disclose the material facts relating to receipt of direct or indirect payment for, or any personal economic interest in, any covered activity that the professor undertakes in a professorial capacity. A professor is deemed to possess an economic interest if the professor or an immediate family member may receive a financial benefit from participation in the covered activity. Disclosure is not required for normal academic compensation, such as salary, internal research grants, and honoraria and compensation for travel expenses from academic institutions, or for book royalties. Disclosure is not required for funding or an economic interest that is sufficiently modest or remote in time that a reasonable person would not expect it to be disclosed. Disclosure of material facts should include: (1) the conditions imposed or expected by the funding source on views expressed in any future covered activity; and (2) the identity of any funding source, except where the professor has provided legal representation to a client in a matter external to legal scholarship under circumstances that require the identity to remain privileged under applicable law. If such a privilege prohibits disclosure the professor shall generally describe the interest represented.

[**Note:** The rest of this section of the AALS Statement is superseded by more specific Conflict of Interest Policy adopted by the faculty in May 2009, and codified here in Section 1.1.7]

1.1.4 Responsibilities to Colleagues

Law professors should treat colleagues and staff members with civility and respect. Senior law professors should be particularly sensitive to the terms of any debate involving their junior colleagues and should so conduct themselves as junior colleagues will understand that no adverse professional consequences would follow from expression of, or action based upon, beliefs or opinions contrary to those held by the senior professor.

Matters of law school governance deserve the exercise of independent judgment by each voting member of the faculty. It is therefore inappropriate for a law professor to apply any sort of pressure other than persuasion on the merits in an effort to influence the vote of another member of the faculty.

Law professors should comply with institutional rules or policies requiring confidentiality concerning oral or written communications. Such rules or policies frequently will exist with respect to personnel matters and evaluations of student performance. If there is doubt whether such a rule or policy is in effect, a law professor should seek clarification.

An evaluation made of any colleague for purposes of promotion or tenure should be based exclusively upon appropriate academic and service criteria fairly weighted in accordance with standards understood by the faculty and communicated to the subject of the evaluation.

Law professors should make themselves reasonably available to colleagues for purposes of discussing teaching methods, content of courses, possible topics of scholarship, scholarly work in progress, and related matters. Except in rare cases and for compelling reasons, professors should always honor requests from their own law schools for evaluation of scholarship in connection with promotion or tenure decisions. Law professors should also give sympathetic consideration to similar requests from other law schools.

As is the case with respect to students (Part 1), sexual harassment, or discriminatory conduct involving colleagues or staff members on the basis of race, color, religion, national origin, sex, sexual orientation, disability or handicap, age, or political beliefs is unacceptable.

1.1.5 Responsibilities to the Law School and University

Law professors have a responsibility to participate in the governance of their university and particularly the law school itself. Although many duties within modern universities are assumed by professional administrators, the faculty retains substantial collective responsibility to provide institutional leadership. Individual professors have a responsibility to assume a fair share of that leadership, including the duty to serve on faculty

committees and to participate in faculty deliberations.

Law professors are frequently in demand to participate in activities outside the law school. Such involvement may help bring fresh insights to the professor's classes and writing. Excessive involvement in outside activities, however, tends to reduce the time that the professor has to meet obligations to students, colleagues, and the law school. A professor thus has a responsibility both to adhere to a university's specific limitations on outside activity and to assure that outside activities do not significantly diminish the professor's availability to meet institutional obligations. Professors should comply with applicable laws and university regulations and policies concerning the use of university funds, personnel, and property in connection with such activities.

When a law professor resigns from the university to assume another position, or seeks a leave of absence to teach at another institution, or assumes a temporary position in practice or government, the professor should provide reasonable advance notice. Absent unusual circumstances, a professor should adhere to the dates established in the Statement of Good Practices for the Recruitment of and Resignation by Full-Time Faculty Members of the Association of American Law Schools.

Although all law professors have the right as citizens to take positions on public questions, each professor has a duty not to imply that he or she speaks on behalf of the law school or university. Thus, a professor should take steps to assure that any designation of the professor's institution in connection with the professor's name is for identification only.

1.1.6 Responsibilities to the Bar and General Public

A law professor occupies a unique role as a bridge between the bar and students preparing to become members of the bar. It is important that professors accept the responsibilities of professional status. At a minimum, a law professor should adhere to the Code or Rules of Professional Conduct of the state bars to which the law professor may belong. A law professor may responsibly test the limits of professional rules in an effort to determine their constitutionality or proper application. Other conduct warranting discipline as a lawyer should be a matter of serious concern to the professor's law school and university.

One of the traditional obligations of members of the bar is to engage in uncompensated public service or pro bono legal activities. As role models for students and as members of the legal profession, law professors share this responsibility. This responsibility can be met in a variety of ways, including direct client contact through legal aid or public defender offices (whether or not through the law school), participating in the legal work of public interest organizations, lecturing in continuing legal education programs, educating public school pupils or other groups concerning the legal system, advising local, state and national government officials on legal issues, engaging in

legislative drafting, or other law reform activities. The fact that a law professor's income does not depend on serving the interests of private clients permits a law professor to take positions on issues as to which practicing lawyers may be more inhibited. With that freedom from economic pressure goes an enhanced obligation to pursue individual and social justice.

1.1.7 Conflict of Interest Policy

Source: Law School Faculty Policy, adopted by resolution, May 2009

1.1.7.1 Statement of Principles

The purpose of this policy is to safeguard the integrity and reputation of Seton Hall University School of Law, its faculty and researchers in the matter of conflicts of interest. Independent judgment is essential for faculty — particularly in scholarship, but also in teaching and service. Receipt of compensation or other direct or indirect benefits from various sources has the potential to compromise that independence, and may sometimes actually do so. Thus, each faculty member has the responsibility to avoid the receipt of benefits that will compromise his or her independent judgment exercised in his or her research, teaching and service to the Law School. Faculty members, under this policy, include full time and part-time professors and researchers. Additionally, this policy aims to ensure that external sponsors will not have an expectation of a particular result in any covered activity completed by a faculty member of the Law School.

Faculty members must avoid compromising their academic integrity through improper receipt of benefits that influence their independent judgment. Moreover, they must appropriately manage appearances of conflicts of interest by disclosure of the receipt of benefits.

When a faculty member is unsure about whether a conflict of interest requiring disclosure of benefits in regard to a covered activity exists, the faculty member should consult with a member of the administration designated by the administration as the conflicts management officer. Given the realm of concerns that are potentially unique to The Center for Health & Pharmaceutical Law and Policy, the Gibbons Institute of Law, Science and Technology, and any other uniquely situated centers within the Law School, it may be advisable to appoint different persons to advise on potential conflicts arising in those spheres.

To manage any conflict, the designated member of the Law School administration and the faculty member may consult with the Law School Dean (or a designated Associate Dean) and/or a committee of faculty representatives formed to assist in the resolution of the conflict. In most instances, appropriate disclosure will be sufficient.

1.1.7.2 Financial Conflicts of Interest

A faculty member shall disclose the material facts relating to receipt of direct or indirect payment for, or any personal economic interest in, any covered activity that the professor undertakes in a professorial capacity, or take such other steps to manage the conflict as shall be agreed upon by the faculty member and Dean, Associate Dean, or committee, as appropriate. Covered activities under this policy include any published work, oral or written presentation to conferences, drafting committees, panels, legislatures, and the like, any expert testimony submitted in legal proceedings, and teaching and service performed in connection with his or her responsibilities to the Law School.

A faculty member is deemed to possess a material economic interest if they or an immediate family member has a material financial interest in the source of funding or in the subject matter of the covered activity, or if they or an immediate family member will receive or can reasonably be anticipated to receive a material financial benefit from the faculty member's participation in the covered activity. Immediate family members include parents, siblings, a spouse or partner, children or dependent relatives.

A faculty member shall disclose the fact that views or analysis expressed in any covered activity mentioned above were developed in the course of representation of or consultation with a client when a reasonable person would be likely to see that fact as having influenced the position taken by the faculty member. Disclosure is not required for representation or consultation that is sufficiently remote in time that a reasonable person would not expect it to be disclosed by the faculty member. Disclosure shall include the identity of any client where not prohibited by the governing Code or Rules of Professional Conduct. If such guidelines prohibit the disclosure of the identity of the client, then the faculty member shall generally describe the client, interest represented or both.

1.1.7.3 Financial Conflicts of Interest for Externally Sponsored Projects

This policy is aimed to avoid distortion of research results as well as address challenges that call into question the credibility and objectivity of the research and findings made by the faculty member, thereby harming the reputation of the Law School. The potential for improper influence is at its weakest when the given research involves doctrinal exposition or a policy argument that is informed by no claim to special access to realities of the physical and social world beyond common sense. By contrast, research that results in making a claim to special authoritative knowledge of some aspect of the physical world which is then used to inform policy arguments and/or make particular recommendations, presents greater potential for ethical problems and concerns, since distortion of results by financial interests is possible.

Any Law School faculty member who is funded by or is responsible for the conduct, design, reporting, or approval of any externally funded project is required to disclose, as set forth in Section A, all known significant financial interests and those of his or her family

members that would reasonably appear to be affected by such a project. No faculty member should accept funding conditioned on an expectancy, explicit or implied, that the results of the research will come to a particular conclusion or point in a particular direction. In addition, no faculty members should accept funding conditioned on secrecy of any part of the result or resulting data, or on pre-publication review or approval by the funding source.

In general, it is desirable to obtain funding from outside sources having more neutral positions regarding the subject matter and outcomes of the research. Though sometimes it may be necessary to accept independent funding (or "no-strings" money) from a source with an obvious outcome preference, the faculty member should be careful to take all appropriate steps to design the research to insulate the results from the hopes and desires of the funding source so as to be objective and neutral.

Additionally, public disclosure of the funding source is required only where a faculty member's activities result in the publication or presentation of a topic directly related to research that was funded by a particular outside source.

1.1.8 Academic Freedom

Source: Law School Faculty Policy, Adopted by resolution, May 7, 2010

(a) All members of the faculty, whether tenured or not, are entitled to academic freedom as set forth in the 1940 "Statement of Principles on Academic Freedom and Tenure" formulated by the Association of American Colleges and the American Association of University Professors.

(b) Academic freedom is essential to the purposes of the university and applies to both teaching and research. Freedom in research is fundamental to the advancement of truth. Academic freedom in teaching is fundamental for the protection of the rights of the teacher and of the student.

(c) Faculty members are entitled to freedom in discussing their subjects. They should be careful not to introduce into the classroom matter which does not contribute to student understanding of the course for which the faculty member has responsibility.

(d) When faculty members speak or write they are free from university censorship, but their special position in the community imposes special obligations. As scholars and members of the university, they should remember that the public may judge their profession and the university by their remarks. Therefore, they should at all times endeavor to be accurate, to exercise appropriate restraint, and to show respect for the opinions of others. While properly identifying themselves to outside audiences, they should not purport to function as institutional spokespersons unless specifically commissioned to serve in such a capacity. Professors observe the stated regulations of the institution, provided the regulations do not contravene academic freedom, and maintain their right to comment on or criticize Law School and University policies or decisions and seek revision, either individually or through institutions of faculty

governance.

(e) Faculty members' primary responsibility to their subject(s) is to seek and to state the truth as they see it. They are expected to devote their energy to develop and improve their scholarly competence. They are obligated to exercise critical self-discipline and judgment in using, extending, and transmitting knowledge. They practice academic honesty.

(f) As teachers, faculty members encourage the free pursuit of learning in their students and protect student academic freedom. They foster honest academic conduct and, on their part, provide equitable evaluations of student performance. They respect the confidential nature of the relationship between faculty member and student. They acknowledge significant assistance from students and avoid any exploitation of students for their own private advantage.

1.2 American Bar Association Standards for Approval of Law Schools

Source: ABA website,³ recognized as governing documents by the Faculty By-Laws.

The American Bar Association Section on Legal Education Standards for Approval of Law Schools provides guidance to law school faculty and administration in a number of areas. It is adopted by faculty By-laws as part of the governing documents of the Law School to the extent its language is obligatory, or to the extent that it covers matters not otherwise covered by specific policies of the law school reflected in this faculty guide.

1.3 Policy of Seton Hall University School of Law Regarding Discrimination and Harassment

Source: Law School Faculty Policy, adopted April 18, 2008; Law School Webpage, under Honor Code and Policies

1.3.1 Preamble

Seton Hall Law School values professionalism and respect in interactions between all members of the Law School community, and it especially values diversity in its learning and working community. Accordingly, it strives to maintain a welcoming and nondiscriminatory environment for all. This policy is designed to prohibit particular conduct that endangers these values and render that conduct actionable under the Seton Hall Law School Grievance Rules (the Rules) (see Part 5 of this Guide). Nonetheless, even conduct that does not fall within the prohibitions of this policy, and is therefore not actionable under the Rules, remains inappropriate to the extent it violates this overarching norm of professionalism, respect, and nondiscrimination.

1.3.2 Policy

(a) Seton Hall Law School prohibits discrimination, including harassment, on account of a person's age, race, color, ethnicity, gender, national origin, religion, creed, sexual orientation, or disability by any member of the Seton Hall community against any other member.

(b) The following examples illustrate, but do not exhaust, the types of conduct prohibited by this policy:

(i) causing bodily harm to an individual because of that person's age, race, color, ethnicity, gender, national origin, religion, creed, sexual orientation, or disability;

(ii) misusing grades, evaluations, or promotion procedures to adversely affect a person on the basis of age, race, color, ethnicity, gender, national origin, religion, creed, sexual orientation, or disability;

(iii) not hiring a person on the basis of age, race, color, ethnicity, gender, national origin, religion, creed, sexual orientation, or disability;

³ See www.abanet.org/legaled/standards/standards.html, last visited March 12, 2019.

(iv) making persistent or knowingly offensive demeaning remarks, slurs, jokes, or engaging in persistent or knowingly offensive conduct directed at a person based on that person's age, race, color, ethnicity, gender, national origin, religion, creed, sexual orientation, or disability;

(v) intentionally placing, playing, or displaying visual, video, audio, or written material that demeans a person on the basis of age, race, color, ethnicity, gender, national origin, religion, creed, sexual orientation, or disability in that person's work, study, or living area;

(vi) engaging in persistent, unwelcome sexual teasing, jokes, remarks, or questions;

(vii) patting, pinching, or engaging in other persistent, unwelcome touching of another's body; (viii) sending persistent, unwelcome letters, emails, other on-line communications, or telephone calls related to a past or potential sexual relationship;

(ix) applying persistent, unwelcome pressure for dates or sexual advances;

(x) soliciting sexual favors or other sexually-related behavior by promise of

rewards; (xi) coercing sexual favors or other sexually-related behavior by

threat or punishment;

(xii) committing sexual crimes, including rape, acquaintance rape, attempted rape, or sexual assault.

(c) This policy is not intended to foreclose the exposure of students to any readings or

materials used as part of the educational process even if such materials are offensive or demeaning based on age, race, color, ethnicity, national origin, religion, creed, sexual orientation, or disability, or that are sexually charged, so long as the readings or materials in question are substantially relevant to the legal matters being studied. Nor is this policy intended to foreclose members of the community from expressing political views at the Law School or in other fora, that might be viewed by other members of the community as inappropriate.

1.4 Policy for Investigating Faculty Complaints of Discrimination at the Law School Against the Dean and Associate Deans

Source: Policy for Investigating Complaints of Discrimination (including complaints by faculty) Against Law School Administrators and Staff Members 1.1(c); Webpage.

Complaints against the Dean or an Associate Dean, even when the complaints challenge conduct within their administrative responsibilities, shall be within the jurisdiction of the Grievance Committee. Employees, including Assistant Deans, are governed by the Procedure for Investigating Complaints of Discrimination at the Law School Against Administrators and Employees.

1.5 Consensual Relationships with Subordinates

Source: University Policy: Conduct of All Members of the University Community, Statement on Consensual Relationships; Law School Webpage, under Honor Code and Other Policies, with language adjusted to fit the Law School.

Seton Hall University School of Law considers it inappropriate for any member of the Law School community to establish an intimate relationship with a student, subordinate or colleague upon whose academic or work performance he or she will be required to make professional judgments. The University requires that the faculty member, administrator, graduate assistant, staff member or employee cease such conduct and/or divest himself or herself of the professional responsibility for supervision or oversight, should an intimate relationship develop.

Cross-reference: Section 1.1, the AALS Statement of Good Practices, also addresses this issue

1.6 Policy on Drug Use

Source: University Policy on Drugs and Narcotics; Law School Webpage, under Honor Code and Other Policies (language adjusted to fit Law School context).

Seton Hall University School of Law recognizes that the use or handling of illegal drugs and narcotics and the misuse of prescription drugs violate certain federal, state and local statutes. University members are urged to become aware of the laws regarding drugs and narcotics and to consider carefully the ramifications of violating these laws.

Furthermore, Seton Hall University School of Law prohibits the possession and use of illegal drugs and narcotics. The possession of illegal substances, or paraphernalia on Law School premises for the purpose of using illegal substances, is prohibited. Any student or University member found in violation of this section will not only be subject to prosecution, but will face Law School discipline as well.

1.7 No Smoking Policy

Source: University Policy Conduct of All Members of the University Community: No Smoking Policy; Webpage, under Honor Code and Other Policies, amended to include students expressly and to refer expressly to Law School physical facilities.

Seton Hall University School of Law is committed to providing its employees and students with a smoke-free work environment to protect the health, welfare, and comfort of employees and students from the adverse effects of tobacco smoke from cigarettes, cigars, and pipes. The intent of this policy is to avoid conflict between smoking and non-smoking faculty members, administrators, staff employees and students.

Smoking is prohibited within all Law School premises. This includes all meeting rooms, computer operations rooms, classrooms, all offices, hallways, elevators, public or reception areas, restrooms, and corridors, and other common-access areas.

Smoking is prohibited in all Law School eating facilities on campus. This includes the Law School cafeteria and Cafe and all Lounge areas.

Smoking is prohibited in all areas where a safety hazard exists, such as storage and hazardous materials handling areas.

Smoking is prohibited in all vehicles used by the Law School for transporting employees and/or students, supplies or any other use.

Smoking is permitted only in the following designated areas which are located 15 feet from the main entrances: the Schiff Lawn and the northwest side area of the patio past the flagpole, away from Cafe Deni.

SECTION 2: STANDARDS AND PROCEDURE FOR FACULTY APPOINTMENT, TENURE, PROMOTION, DISMISSAL AND TERMINATION

2.1 Tenure, Promotion and Appointments Standards

Source: Law School Faculty Guide, adopted by resolution, May 12, 2006. (applicable to persons who become members of the full time, tenure track faculty on or after July 1, 2006.

2.1.1 Procedure: Tenure and Promotion

2.1.1.1 Effective Date

These Tenure, Promotion and Appointments Standards shall apply to all persons who become members of the full time, tenure track faculty on or after July 1, 2006.

2.1.1.2 Rank and Tenure Committee

(a) Membership--The Rank and Tenure Committee ("Committee") shall consist of tenured, full professors. The Dean shall appoint the members, naming one as Chair. Five Committee members must be approved, individually, by affirmative vote of the Faculty.

(b) Committee's Duty--The Committee shall make written recommendations to the tenured faculty with respect to applications for tenure and promotion.

(c) Dean's Participation--The Dean shall not sit with the

Committee. (d) Quorum--The full Committee membership

shall be its quorum.

2.1.1.3 Application

(a) A faculty member applying for tenure or promotion ("Candidate") shall submit to the Chair five copies of a written application including:

1. A table of contents listing the application's contents;
2. A detailed curriculum vita;
3. Evidence of excellence in teaching;
4. Evidence of excellence in scholarship, including all material both published and unpublished, that the Candidate considers relevant to evaluation of the Candidate's scholarship;

5. Evidence of service to the law school, university, profession, and community; and

6. Any other information and materials the Candidate deems relevant to demonstrate satisfaction of these standards.

2.1.1.4 Committee Evaluation

(a) Consideration of Scholarship

1. The Committee shall:

- (i) Evaluate all material submitted by the Candidate; and

- (ii) Submit the Candidate's major scholarly works for outside evaluation, unless those works received outside reviews in connection with a prior application at Seton Hall Law School.
- 2. The Committee may:
 - (i) Consider prior outside evaluations of the Candidate's scholarship; and
 - (ii) Submit previously evaluated work for additional outside evaluation.
- 3. With regard to outside evaluations:
 - (i) The Candidate may submit a list of recommended evaluators and the Committee may use these or other evaluators.
 - (ii) Before using an evaluator not recommended by the Candidate, the Committee shall submit the name to the Candidate, who may for cause object to any evaluator.
 - (iii) The Candidate shall disclose any prior professional or other relationship with the evaluator.

(b) Consideration of Teaching

- 1. The Committee shall:
 - (i) Observe and evaluate the Candidate's teaching.
 - (ii) Consider authorized student evaluations of the Candidate's teaching; and
 - (iii) Consider any additional written information reflecting on the Candidate's teaching.
- 2. The Committee may arrange visitations by other members of the

Faculty. (c) Consideration of Service

The Committee shall consider the Candidate's service to the law school, the university, the profession, and the community.

(d) Information and Views of Others

The Committee shall receive and consider any written information and views concerning the Candidate from any faculty member, student or administrator.

(e) Candidate Meeting with Committee

At either the Candidate's or the Committee's request, the Candidate may meet with the Committee to discuss any matters the Candidate or the Committee deems relevant.

(f) Disclosing Committee's Decision

The Chair shall disclose to the Candidate and the faculty the Committee's decision and shall inform the Candidate of the reasons for the decision, keeping confidential the votes and views of individual Committee members.

2.1.1.5 Faculty and Dean Evaluation

(a) Committee Report; Tenured Faculty Meeting and Vote

1. The Chair shall call a meeting of the tenured faculty at which 2/3 of those eligible to vote, not counting those on sabbatical or leave at the time of the meeting, shall be a quorum. The Dean of the law school may sit with the faculty at the meeting, but may not vote.
2. The Committee shall provide the tenured faculty with a written report sufficiently in advance of the meeting to permit them to review and consider it. The Committee shall endeavor to provide the written report at least two weeks before the meeting.
3. When the application is for tenure, all tenured faculty may vote. When the application is for promotion, all tenured faculty of a rank equal to or exceeding that sought by the Candidate may vote.
4. The tenured faculty shall, by majority vote, recommend to the Dean and the Provost whether to approve the Candidate's application.

(b) Reporting Vote

The Chair shall report to the Dean and Candidate the decision of the tenured faculty.

(c) Dean's Independent Decision

The Dean of the law school shall make an independent decision on the application and transmit the decisions of the tenured faculty and of the Dean to the Provost and the Candidate.

2.1.1.6 Confidentiality; Public Announcement

(a) Confidentiality

Committee members and faculty shall maintain fully the confidentiality of all applications and their consideration and shall not communicate with anyone concerning the meetings, votes or deliberations, except as otherwise provided.

(b) Public Announcement

A public announcement concerning the final action of the Committee and faculty shall be made only by the Dean. The Dean shall exercise discretion concerning the announcement's

timing. Ordinarily an announcement shall be made shortly after the tenured faculty has made its decision and the Candidate has been fully informed of that decision.

2.1.2 Eligibility for Tenure and Promotion

2.1.2.1 Eligibility for Tenure; Terminal Contract

(a) Application for Tenure: When Permitted, When Required.

1. Unless the Candidate's letter of appointment grants credit for prior teaching as provided in section 2.1.2.1(c) or the Candidate is appointed with tenure or entitled by that letter to apply as provided in section 2.1.2.1(d),

(i) A tenure-track non-clinical faculty member

- (a) May apply for tenure during the fifth year of teaching as a tenure-track faculty member at Seton Hall Law School, and
- (b) Must apply no later than the sixth year of teaching as a tenure-track faculty member at Seton Hall Law School;

(ii) A tenure-track clinical faculty member

- (a) May apply for tenure during the fifth year of teaching as a tenure-track faculty member at Seton Hall Law School, and
- (b) Must apply no later than the eighth year of teaching as a tenure-track faculty member at Seton Hall Law School.

(b) Terminal Contract

If tenure is not granted before or during the sixth year for non-clinical faculty, or the eighth year for clinical faculty, the faculty member shall be given a terminal contract for the following year.

(c) Credit for Prior Law School Teaching

Except as provided in section 2.1.2.1(c), if expressly stated in the faculty member's letter of appointment, a maximum of eight semesters of full-time service at Seton Hall Law School or other accredited law schools or their foreign equivalents may be counted towards the required period for tenure review.

(d) Candidates Tenured at Other Law Schools

A faculty member who, at the time of appointment, had tenure at another accredited law school or who, having had tenure at such a school, surrendered it voluntarily, may on recommendation by majority vote of the tenured faculty and the Dean, be appointed to the faculty with tenure or be allowed to apply for tenure during the second year at the law school.

(e) All Candidates to Satisfy Standards

Without regard to when a candidate applies, the Candidate must satisfy these standards to receive tenure. Thus, an application before the sixth year, where permitted, will require the same quantity and level of achievement as one made in the sixth year.

2.1.2.2 Eligibility for Promotion to Full Professor

(a) A Candidate may apply for promotion to the rank of Full Professor who is

1. At least in the Candidate's second year of full-time service at the rank of Associate Professor; and
2. At least in the Candidate's second year of full-time service at Seton Hall Law School.

(b) A Candidate applying for promotion to Full Professor may be either

1. An Associate Professor with tenure, or
2. An Associate Professor without tenure, who must be simultaneously applying for tenure.

2.1.3 Standards for Tenure and Promotion

2.1.3.1 Teaching, Scholarship, and Service

(a) Teaching

For tenure or promotion, faculty members must demonstrate excellence in teaching, including a capacity to inspire and challenge students and to develop their legal skills and knowledge. Relevant factors include the Candidate's ability to communicate, preparation for class, breadth and depth of knowledge, organization of individual classes and overall course content, ability to stimulate students, ability to direct a class, accessibility to students, demonstrated interest and involvement in students' welfare, effectiveness and timeliness in preparing and grading examinations and other evaluative mechanisms, and regular and punctual conduct of classes.

(b) Scholarship

1. Legal scholars find many outlets and pursue a wide range of objectives in their scholarship. However, varied the purposes of scholarship and however diverse the forms in which it is manifested, it must ultimately appear in writing, be the result of thoughtful labor

and be disseminated to and warrant recognition by a significant professional audience.

2. Appropriate forms of scholarship include, but are not limited to, books and monographs; book chapters; articles, especially in law reviews or other scholarly journals; book reviews of significant depth; research project reports such as those under the auspices of the law school, a bar foundation or under contract research; and publications of learned societies such as the ALI, ABA, other bar associations, AALS, and judicial or administrative conferences.

3. Scholarly pieces should include carefully conceived analysis, whether doctrinal, theoretical, or empirical. The scholarship should be sufficiently ambitious to justify the substantial commitment of time that the Candidate should have invested in the work. Scholarship, in sum, is informed, reflective, deeply analytical and, in some substantial part, a personal statement.

4. In general, the work considered for tenure is that completed since appointment as a law professor, and the work considered for promotion is that completed since attainment of the prior rank. Other work, however, may bear on consideration of the Candidate's overall scholarly achievement.

(c) Service

1. A Candidate for tenure or promotion must fulfill the Candidate's duties to the law school, and must demonstrate substantial service to the law school, university, profession, or community. A Candidate's duties to the Law School, in addition to teaching and scholarship, include attending and participating in faculty and committee meetings and being available to students and colleagues. The Law School encourages Candidates to use their professional ability in service to the community and the profession, which may be manifested through activities of bar associations and other professional organizations or participation in public affairs or government or community organizations. The quality of the Candidate's service is important.

2.1.3.2 Definition of Tenure; Standard for Tenure

(a) An appointment with tenure means that a full-time faculty member has the right to university employment each and every fall and spring semester until the August 31 following retirement without reduction in rank and without termination except as provided for in section 5 below. Furthermore, a tenured faculty member shall not have his/her salary or benefits reduced unless a general reduction in salaries and benefits for all faculty members is necessary because of financial exigency.

(b) The serious consequences of granting tenure require that the law school apply a high standard to determine whether past performance permits a confident prediction that the Candidate will be not merely an adequate faculty member, but a strong asset to the institution

throughout the balance of the Candidate's career. For tenure, a Candidate must:

1. Demonstrate excellence in teaching, in accordance with section 2.1.3.1(a).
2. Demonstrate significant productivity in scholarship, in accordance with section 2.1.3.1(b). The Candidate's record of scholarship, in both quality and quantity, must demonstrate that the Candidate has made a significant contribution to legal scholarship, and must provide confidence that the Candidate will continue to be a productive scholar for the balance of the Candidate's career. Ordinarily tenure should not be granted unless a Candidate has published at least two substantial works of legal scholarship.
3. Demonstrate substantial service, in accordance with section 2.1.3.1(c).

2.1.3.3 Standard for Promotion to Full Professor

(a) For promotion to Full Professor, a Candidate must:

1. Meet or continue to meet the standard for tenure with regard to teaching; and
2. Demonstrate that the Candidate's scholarship, in both quality and quantity, has exceeded the standard for tenure and has merited recognition by scholars in the Candidate's field or fields; and
3. Meet or continue to meet the standard for tenure with regard to service.

2.1.4 Standards for Appointment to Faculty

2.1.4.1 General Standards; Definitions

(a) Minimum Qualifications. Each Law School Faculty Candidate member must:

1. Hold at a minimum the Juris Doctor (J.D.) degree or an equivalent first professional degree in law from an AALS approved law school or foreign school of equivalent standing; and
2. Meet the requirements for the rank to which the Candidate is appointed.

(b) Definitions.

The following definitions shall apply to all appointments:

1. Teaching experience: Teaching law courses in an ABA or AALS accredited law school or foreign law school of equivalent standing.
2. Practice of law: Employment as an attorney, service as judicial law clerk, or other employment requiring the skills of an attorney.

2.1.4.2 Standard for Appointment as Associate Professor

A Candidate appointed as an Associate Professor shall, as a minimum, have one of the following qualifications:

1. One year of successful teaching experience, with evidence of teaching effectiveness as described in section 2.1.3.1(a) and institutional and public service as described in section 2.1.3.1(c), or
2. Three years of successful experience in the practice of law which should include legal scholarship and indicate a potential for effective law teaching, or
3. An appropriate combination of successful teaching and practice experience.

2.1.4.3 Standard for Appointment as Full Professor

A Candidate appointed as a Full Professor shall, as a minimum, satisfy each of the following qualifications:

1. Three years' successful teaching experience at the rank of Associate Professor or Full Professor, and
2. Fulfillment of the teaching, scholarship, and service requirements of section 2.1.3.4, provided that for purposes of the service requirement, service to another law school or university may be considered.

2.1.4.4 Waiver of Requirements in Exceptional Cases

(a) In exceptional cases the faculty may recommend waiver of any requirements of appointment to a rank, or appointment with tenure, by a two-thirds vote of the faculty present and voting. Factors that may be considered in granting a waiver include advanced degrees in law, a substantial record of publication, advanced degrees in relevant disciplines, and extraordinary professional activities in non-academic endeavors.

2.1.4.5 Faculty Recommendation on Rank of a Proposed Faculty Member

Source of this subsection – Faculty By-Laws

The Faculty Body shall, as to the issue of rank of a proposed Faculty member, consist of all members of the Faculty having a rank equal or superior to that proposed for the applicant. Whenever it is sought to grant a potential Faculty member tenure on the Faculty, all tenured members of the Faculty shall be eligible to vote. Whenever it is proposed to give an applicant for appointment a rank of Full Professor, all those regular full time Faculty members who are not eligible to vote shall be afforded an opportunity to address the Body on the appropriateness of such rank.

2.1.5 Evaluations of Untenured Faculty

Source of this subsection – Faculty By-Laws

2.1.5.1 Duties of the Contract Renewal Committee

The Contract Renewal Committee shall:

(a) Review untenured Faculty members during their first, second, and fourth years and provide written recommendations to the Dean with respect to the renewal or non-renewal of a contract of a tenure-track Faculty member based on the standards in subparagraph (4). The Committee may provide a limited review where appropriate, e.g. during the first year of teaching, and shall not review Faculty members in the year in which they are granted promotion or tenure.

(b) Conduct a formal, third-year review of any tenure-track Faculty member who has not been granted promotion or tenure during that year. As part of that review, the Committee will evaluate the Faculty member's teaching, scholarship and service. The Committee will submit any completed scholarship provided by the candidate for outside review. The Committee shall prepare a formal report to the Dean and the tenured Faculty addressing the Faculty member's teaching, scholarship and service and shall recommend contract renewal only if it concludes that the Faculty member's performance in all three areas provides strong evidence of progress towards tenure. The report shall be made available to the Dean and the tenured Faculty at least one week prior to the date scheduled for the meeting at which the tenured Faculty will vote on applications for promotion and tenure. At that meeting, the Committee shall present its report to the tenured Faculty who shall thereafter vote a recommendation on retention. The results of the vote shall be provided to the Dean, who will then decide whether or not to renew the contract of the Faculty member in question based on the Faculty member's teaching, scholarship and service.

(c) Review and provide written recommendations with respect to the non-renewal of a contract when the Dean informs the Committee of any other reason why the Dean does not intend to renew the contract of a tenure-track Faculty member.

2.1.5.2 Dean's Statement of Reasons and Access to Statements

If the Dean does not accept the recommendation of the Contract Renewal Committee or, in the case of a third-year review, of the Faculty, the Dean shall state the reasons in writing. The written recommendation or report of the Contract Renewal Committee and the written statements of the Dean, if the Dean does not accept the recommendations of the Committee or of the Faculty, shall be provided to the tenure-track

Faculty member. Upon request, the Committee's recommendation or report and the Dean's written statements may be examined by full-time members of the Faculty, provided the Faculty member who is the subject of these documents consents to its disclosure.

2.1.5.3 Standards

In providing recommendations to the Dean about non-renewal of tenure-track Faculty members during their first, second, and fourth years, the Contract Renewal Committee shall observe the following standards:

(a) The Committee shall informally advise the tenure-track Faculty member on the Faculty member's progress in teaching, service and scholarship.

(b) The Committee may recommend non-renewal of the contract based on one or more of the following factors:

1. deficiencies in teaching that are sufficiently serious and detrimental to students that non-renewal is warranted independent of any tenure decision;
2. a substantial failure of the Faculty member to perform Committee assignments and other identified aspects of the responsibility for service;
3. lack of progress in scholarship when the deficiencies in quantity or quality of the scholarship show that there is no reasonable prospect that the Faculty member will meet the standards for tenure relating to scholarship.

(c) In advising on whether a tenure-track Faculty member is making progress, and in making its recommendation on non-renewal of the contract, the Committee shall take into account the years of service of the tenure-track Faculty member and any years of teaching at other institutions for which the member has received credit towards meeting the eligibility standards for applying for tenure.

2.2 Non-Tenure Track Faculty Hiring and Promotion Procedure and Status

2.2.1 Visiting Assistant Professors and Non-Tenure Track Contract Faculty

2.2.1.1 Visiting Assistant Professors

“Visiting Assistant Professors” are highly qualified individuals interested in entering the academic job market. They shall hold at a minimum the Juris Doctor (J.D.) degree or an equivalent first professional degree in law from an AALS-approved law school or foreign school of equivalent standing. Visiting Assistant Professors will be appointed for no more than two years and are expected to teach approximately 9 -10 credits per year. They are also expected to engage in scholarly activities such as undertaking research, writing and publishing

papers, and participating in scholarly presentations at the Law School and in the wider academic community. Visiting Assistant Professors are not on a tenure track at the Law School, may not serve for more than two years, and are not eligible to be considered for a tenure-track position until at least two years have passed since completion of their service to Seton Hall.

Visiting Assistant Professors are not entitled to a vote at faculty meetings but may attend such meetings, except as provided in § 3.1.5 related to executive sessions. They are also not expected to engage in other faculty governance activities but are welcome to participate in other service activities.

Visiting Assistant Professors are subject to all academic and other rules and regulations of the Law School, including applicable sections of the Faculty Guide, as well as applicable University policies.

2.2.1.2 Non-tenure Track Contract Faculty: General

(a) Non-Tenure Track Contract Faculty (“Contract Faculty”) are highly qualified individuals who are generally appointed to teach legal practice courses, lawyering and clinical courses but sometimes appointed for other purposes, including performing directed research and writing assignments as part of Centers or Institutes. Both types of positions may entail substantial administrative work. These are normally full-time positions. The term “contract faculty” does not include adjunct professors hired to teach individual courses. Where teaching is the primary responsibility, the typical load of a full-time Contract Faculty member will be 9-12 credits of JD courses or the MSJ equivalent. Precise duties and specification of full time or part time status will be set out in letters of appointment. Contract Faculty members are not required to engage in their own scholarship although those whose primary responsibilities include research are expected to write reports, grant applications, and other work product as well as participate in symposia, all as directed by their tenured faculty supervisors.

(b) Contract Faculty may participate and vote in faculty committees, with the exception of appointments, grievance, contract renewal, rank and tenure, and bylaws. Contract Faculty may also be required to fulfill other service obligations as specified in their letters of appointment. Contract Faculty are not entitled to a vote at faculty meetings but may attend such meetings, except as provided in § 3.1.5 related to executive sessions. *Provided that* clinical faculty with long-term contracts that encompass teaching, scholarship, and service obligations may be accorded voting rights consistent with § 3.1.6.

(c) Contract Faculty are not subject to the rules for hiring, advancement, and retention of tenure track faculty in § 2.1, but are governed by the provisions of this section. Contract Faculty are not eligible to be considered for a tenure-track appointment until at least two years have passed since completion of their service to Seton Hall.

(d) Contract Faculty shall hold at a minimum the Juris Doctor (J.D.) degree or an equivalent first professional degree in law from an AALS approved law school or foreign school of equivalent standing. They should also have professional experience appropriate to the position for which they are being appointed, including experience working as an attorney in a clerkship, law practice, public interest organization, or government agency.

(e) Contract Faculty are ordinarily appointed at the rank of Assistant Professor. Their titles may also describe their primary duties.

(f) Contract Faculty shall be initially appointed either on an at-will basis or to a one-year contract. Thereafter, Contract Faculty may be awarded multi-year appointments and/or promoted to the rank of Associate Professor consistent with the provisions of § 2.2.3. Their titles may also describe their primary duties.

(g) Contract Faculty are subject to all academic and other rules and regulations of the Law School, including applicable sections of the Faculty Guide, as well as applicable University policies.

2.2.2 Hiring Process for Contract Faculty

The Associate Dean for Academics (or, in the case of hires for a Center/Institute, the Associate Dean to whom the Center/Institute reports), with the input of Voting Faculty members in the relevant subject areas (or Centers/Institutes, as applicable), shall undertake a search and interview process for new Contract Faculty. Other faculty and administrators may also be asked to participate in the selection process. If the consulted Voting Faculty members so approve, the relevant Associate Dean will make the appointment and report the person or persons selected to the full faculty.

Reappointment and Promotion Process for Contract Faculty

(a) All Contract Faculty will have their performances reviewed at least once a year by the Associate Dean for Academics or his or her designate, or in the case of the clinics, legal practice curriculum and Centers/Institutes, by the Director and, at the relevant Associate Dean's election, the relevant Associate Dean.

(b) The Associate Dean for Academics or the Associate Dean responsible for the clinics or Centers/Institutes may continue any Contract Faculty member in at-will status or renew any one-year appointment without a formal application process.

(c) A Contract Faculty member appointed on an at-will basis will be eligible to apply for a one-year appointment after having served for no less than one year in his or her current status.

(d) A Contract Faculty member may apply for a three-year appointment at the rank of Associate Professor after having served for no fewer than three years as an at-will Assistant Professor, an Assistant Professor on one-year contracts, or an Adjunct Legal Practice Professor, or any combination thereof. *Provided that* any individual currently on a presumptively renewable five-year contract shall be subject to the terms and conditions regarding renewal of such contracts.

(e) A Contract Faculty member who wishes to be a candidate for a three year appointment shall submit to the Contract Renewal Committee and the Associate Dean for Academics a written application including: A detailed curriculum vitae; as relevant to the candidate's duties, evidence of excellence in teaching research, scholarly writing, and/or programmatic duties; and any other relevant information the candidate wishes to submit.

(f) The Contract Renewal Committee and the Associate Dean shall consider all material submitted by the candidate and any other information relevant to an assessment of the candidate's performance, including annual evaluations. In particular, the Contract Renewal Committee and the Associate Dean shall consult the candidate's supervisor, if one exists, and may consult other members of the Voting or Contract Faculty. The Contract Renewal Committee and the Associate Dean should examine student evaluations and may visit classes in person or through a delegate in order to assess effectiveness in teaching.

(g) At the conclusion of this review, the Contract Renewal Committee and the Associate Dean shall make written recommendations to the Faculty and the Dean as to whether to grant or deny the application, and, if a denial, recommend continuation of prior status or other action. The Faculty shall vote a recommendation on the application and submit it to the Dean, who shall make the final decision, which is not subject to appeal.

(h) A Contract Faculty member seeking renewal of a three-year appointment shall submit an application, which shall be considered as specified in paragraphs (e), (f), and (g) of this section.

(i) All contracts may be terminated by the University before their normal expiration date based on the terms of the contracts, or on

(1) Just cause for dismissal;

(2) A decision to reduce or terminate a program or a faculty position through program review procedures initially undertaken by the faculty of the Law School; or

(3) A decision to reduce or terminate a program or a faculty position because of severe, drastic, or emergency institutional situations, including a reduction in student enrollments or loss of external funding essential to sustaining the program or position.

2.3 Hiring Visiting Faculty--Lateral Hiring Process

Source: Law School Faculty Policy, adopted by resolution, as amended by faculty resolution, February 16, 2007

2.3.1 Purpose and Goals

Seton Hall Law School should use the lateral process to identify and pursue prospects who have achieved a level of scholarly excellence such that, were they products of the school's own entry-level hiring process, the school would be delighted with its foresight, finding the prospect to occupy a leading scholarly position among his or her generational peers on the faculty.

2.3.2 General Approach

The Lateral Hiring Committee will review "works in print" publications and the contents of top journals (reflective of not simply top general journals but also top journals in specialized areas) to identify emerging or established scholars of note. Colleagues should feel free to pass along to the Committee the names of emerging or established scholars they have identified through their own work, although the Committee must be free to exercise its discretion to screen out suggested academics clearly beyond our reasonable reach and those who seem not likely to meet the qualitative baseline for lateral hires. Receipt of a colleague's recommendation will not suggest that the Committee should contact the potential prospect unless and until the Committee's process suggests the prospect is appropriate for consideration. The Committee will identify potential laterals, and review their scholarship. This scholarship review will be performed by Committee members and by members of the faculty particularly capable (due, e.g., to subject matter affinity) of assisting in the screening process.

2.3.3 Lateral Hiring Committee Composition

The Lateral Hiring Committee should be small – five members – in order to lessen the burden on faculty of reviewing prospects' scholarly production. The Committee would, as is described above, be supplemented on an ad hoc basis to gain the input of faculty members in related areas of scholarship. Because the main task of the Committee is scholarship review, it should not have student members. Students would be involved in the process during the look-see visitorship, and would have substantial opportunities to inform the process at that time.

2.3.4 Guidelines for Timing

The screening process should take place throughout the year. If possible, the process should lead to the identification of a prospect in time for the faculty to vote on a look-see visitorship early in the fall, in order to inform the entry-level hiring process. The timing should remain flexible, however, permitting suitable prospects to be brought to the faculty for a vote on a visitorship at any time during the year. At all stages of the process, the prospect should be clear that an offer of visitorship is not equivalent to the offer of a permanent position, and that the full faculty must vote on any offer after the visit is completed.

2.3.5 Lateral Hiring Process

No look-see visitor should be invited without approval of the faculty. The Lateral Hiring Committee will present a prospect to the faculty, and report on qualifications. If the faculty approves by a two-thirds (2/3) vote, a prospect will be invited for a visit the following year. One-year visits are preferred, although flexibility should be maintained to permit one semester visits if circumstances suggest. The prospect will teach a full load of classes, and will present a scholarly paper to the faculty. After the prospect has returned to her home school, the Committee will report to the faculty. The report will recap previous information on scholarship, with new material highlighted. It will summarize information about teaching and scholarship gleaned from the visit. The Committee will recommend whether or not an offer should be extended. Reports of the Committee should be in writing and provided to the faculty at least two weeks prior to the meeting. The faculty vote approving either an offer of a look-see visit or a permanent tenured or tenure track position should take place no later than the regular February meeting of the academic year prior to the effective date of the appointment.

2.3.6 Exception on Voting Requirement for Look-See Visitors

The vote on making an offer of a permanent position should be taken only after the prospect has completed her visit and returned to her home institution, as is described above. Under extraordinary circumstances, this rule can be waived on a three-fourths (3/4) faculty vote. If possible, this circumstance should be anticipated, so that the faculty can approve a waiver of the general rule prior to the inception of the visit.

2.3.7 Alternate Procedure for Extraordinary Circumstances

No look-see visitorship. In extraordinary circumstances, the Lateral Hiring Committee may believe that a candidate should be considered without a look-see visitorship. In those circumstances, the candidate must make a scholarly presentation to the faculty. If the appointment is to be with tenure, the Lateral Hiring Committee should inform the Rank and Tenure Committee of the circumstances. The committees should then jointly consider the scholarship, teaching, collegiality and service of the prospect, and jointly report to the faculty on offer of employment and tenure. A recommendation of an offer of a permanent position under these circumstances must be approved by a four-fifths (4/5) majority of the faculty.

2.3.8 Alternate Procedure for Chairs

Source: Faculty resolution, February 16, 2007

In the case of Chairs or Professorships that are fully or largely funded by external gifts or restricted endowment, the Lateral Hiring Committee may conclude that a candidate should be offered a position without any requirement of a prior visitorship. In those circumstances, the candidate must spend at least two days at the law school and make a scholarly presentation to the faculty prior to any recommendation. If such an appointment is to be with tenure, the Lateral Hiring Committee should inform the Rank and Tenure Committee of the circumstances. The committees should then jointly consider the scholarship, teaching, collegiality, and service of the prospect, and jointly report to the faculty on offer of employment and tenure. Should a majority of each of the committees support an offer of a tenured position, such an offer by the Law School of a permanent position must be further approved by a two-thirds (2/3) majority of the faculty. The offer of a permanent position by Seton Hall under these circumstances will not preclude the prospect from choosing to visit at Seton Hall for a year before deciding whether to accept such an offer.

2.3.9 Tenure Issues

When the process of evaluating a prospect has reached the point that the Lateral Hiring Committee is considering recommending the offer of a permanent position, the issue of tenure will be addressed. If the prospect is not tenured and an offer with tenure is not contemplated, no involvement of the Rank and Tenure Committee is necessary. If the Lateral Hiring Committee anticipates that the offer of permanent employment will include tenure, it should inform the Rank and Tenure Committee. The committees should then jointly consider the scholarship, teaching, collegiality and service of the prospect, and jointly report to the faculty on offer of employment and tenure.

2.3.10 Other Visitors

"Occasional" visitors are faculty of other academic institutions visiting for purposes other than exploring permanent employment at Seton Hall. Occasional visitors may be invited to cover curricular needs, to accommodate the visitor's interests in temporarily working with our faculty, or both. "Distinguished visitors" are a subclass of this category.

Distinguished visitors are particularly prominent persons invited to join our faculty on a temporary basis, with no expectation on either side of a permanent relationship.

The administration should bear the principal responsibility for selecting occasional visitors. Absent extenuating circumstances, the Associate Dean should forward the resume of a proposed occasional visitor to the members of the Lateral Hiring Committee one week before an offer is made. Unless the Committee indicates otherwise, the Associate Dean is empowered to retain the occasional

visitor. The letter appointing the occasional visitor should clearly indicate the temporary nature of the visit. An occasional visitor may not be considered for a tenured or tenure-track position unless she has returned to her home institution and is considered pursuant to the lateral hiring procedure described above.

2.5. Librarian Faculty Hiring and Promotion Procedure and Status
Law School Faculty Policy, adopted by resolution, *** (2019)

2.5.1: General

(j) Librarian Faculty (“Librarian Faculty”) are highly qualified individuals who are generally appointed to provide research and reference services and resources to law faculty, students, and members of the local bar through formal and informal instruction, the selection and maintenance of legal materials, and other means of supporting the educational and scholarly mission of the law school. These are normally full-time positions. Precise duties will be set out in letters of appointment and job descriptions.

(b) Librarian Faculty may participate and vote in faculty committees, with the exception of appointments, grievance, contract renewal, rank and tenure, and bylaws. Librarian Faculty may also be required to fulfill other service obligations as specified in their letters of appointment. Librarian Faculty are not entitled to a vote at faculty meetings but may attend such meetings, except as provided in § 3.1.5 related to executive sessions.

(c) Librarian Faculty are not subject to the rules for hiring, advancement, and retention of tenure track faculty in § 2.1, but are governed by the provisions of this section.

(d) Librarian Faculty shall hold at a minimum an M.L.S from an ALA approved school or equivalent degree and generally should also hold the Juris Doctor (J.D.) degree or an equivalent first professional degree in law from an ABA approved law school or foreign school of equivalent standing. They should also have professional experience appropriate to the position for which they are being appointed, including experience working as an attorney in a clerkship, law practice, public interest organization, government agency, or in a law library.

(e) Librarian Faculty are ordinarily appointed at the rank of Assistant Professor. Their titles may also describe their primary duties. Librarian Faculty shall be initially appointed either on an at-will basis or to a one-year contract consistent with this section pr. Thereafter, Librarian Faculty may be awarded multi-year appointments and/or promoted to the rank of Associate Professor consistent with the provisions of §§ 2.5.3. Their titles may also describe their primary duties.

(f) Librarian Faculty are subject to all academic and other rules and regulations of the Law School, including applicable sections of the Faculty Guide, as well as applicable University policies.

2.5.2 Hiring Process for Librarian Faculty

The Director of the Peter W. Rodino, Jr. Law Library, with the input of Voting Faculty members as determined by the Dean, shall undertake a search and interview process for new Librarian Faculty. Other faculty, administrators, and staff will also be asked to participate in the selection process. If the Dean so approves, the Director will make the appointment consistent with the provisions of § 2.2.3 and report the person or persons selected to the full faculty.

2.5.3 Standards for Appointment and Evaluation of Librarian Faculty

Librarian Faculty fill unique and diverse roles in the law school environment and assessment of their performance must of necessity be flexible enough to account for that variety of responsibilities. The primary mission of all Librarian Faculty is service to the students, faculty, and staff of Seton Hall Law and their educational and scholarly pursuits. The key responsibilities for each individual Librarian Faculty's role are detailed in their job descriptions, which will be considered when evaluating performance. In addition to the expectation of high-level service, all Librarian Faculty are expected to actively participate in the life of the department, law school, and profession. While scholarship and formal teaching may not be required of all Librarian Faculty, such activities are welcome and encouraged.

(a) Standard for Appointment with At-Will Status

1. Appointment with at-will status is intended for new librarians at the start of their career. Their library experience to-date has primarily been in the classroom, and they are transitioning to a professional life. Librarian Faculty at this level are expected to demonstrate an ability to learn and perform the essential functions of their job.
2. Librarian Faculty at this level hold the rank of Instructor.

(b) Standard for Promotion to One-Year Appointment

1. Per § 2.5.4(c), Librarian Faculty appointed on an at-will basis may apply for a one-year appointment after no less than one year's service.
2. A Librarian Faculty member wishing to apply for a one-year appointment should signal his or her intent to apply to the Director in writing no less than 30 days prior to their annual performance review. No less than 14 days prior to their annual review, the applicant should submit to the Director a current curriculum vitae, descriptive list of major projects and accomplishments from the prior year, and letter of application detailing why the applicant believes he or she is qualified for promotion. The applicant may supplement this packet with further evidence he or she feels relevant. The Director shall communicate his or her decision to the Dean, who shall issue the contract, then to the applicant.
3. Librarian Faculty promoted to this level are also promoted to the rank of Assistant Professor.

(c) Standard for Appointment with One-Year Contract

1. A one-year contract is the standard appointment intended for new hires with at least one year of full-time professional library experience. These hires have demonstrated their ability to perform the essentials of their jobs as well as demonstrated a broader understanding of professional life, such as teaching workshops or courses, attending professional events, volunteering for a committee, or collaborating with colleagues.
2. Librarian Faculty at this level generally hold the rank of Assistant Professor. New hires with significant prior law library experience may be appointed at the rank of Associate Professor, upon the recommendation of the Director and approval of the Dean.

(d) Standard for Promotion to Three-Year Appointment

1. No Librarian Faculty member will be hired with a three-year appointment. This status is intended for employees who have demonstrated a commitment to Seton Hall Law, the department, and the profession through sustained high-level job performance, active engagement in the life of the law school, and significant internal and external service, such as developing and teaching workshops and courses, presenting at conferences, chairing committees, and writing on relevant topics. Criteria for promotion are detailed in § 2.5.4.
2. Librarian Faculty approved for a three-year appointment are also promoted to the rank of Associate Professor, if not appointed at that rank upon hire.

2.5.4 Reappointment and Promotion Process for Librarian Faculty

(b) All Librarian Faculty will have their performances reviewed at least once a year by the Director or his or her designate.

(b) The Director may continue any Librarian Faculty member in at-will status or renew any one-year appointment without a formal application process.

(c) A Librarian Faculty member may apply for a three-year appointment at the rank of Associate Professor after having served for no fewer than three years as an at-will Assistant Professor, an Assistant Professor on one-year contracts, or any combination thereof.

(d) A Librarian Faculty member who wishes to be a candidate for a three year appointment shall submit to the Director a written application including: A detailed curriculum vitae; as relevant to the candidate's duties, evidence of excellence in job performance as outlined in the provisions of § 2.5.3; and any other relevant information the candidate wishes to submit. The Director, with the input of the Dean, shall constitute an ad hoc Review Committee, comprised of three members selected from Voting Faculty, Librarian Faculty of equal rank or higher, or Contract Faculty of equal rank or higher. If no Librarian Faculty of equal rank or higher is available for appointment to the Review Committee, the Director shall serve ex-officio for purposes of providing subject-specific guidance.

(e) The Review Committee and the Director shall consider all material submitted by the candidate and any other information relevant to an assessment of the candidate's performance,

including annual evaluations. For those candidates with teaching responsibilities, the Review Committee and the Director should examine student evaluations and may visit classes in person or through a delegate in order to assess effectiveness in teaching.

(f) At the conclusion of this review, the Review Committee shall make a written recommendation to the Director as to whether to grant or deny the application, and, if a denial, recommend continuation of prior status or other action. Taking that recommendation into account, the Director shall then make a recommendation on the application and submit it to the Dean, who shall make the final decision, which is not subject to appeal.

(g) A Librarian Faculty member seeking renewal of a three-year appointment shall submit an application, which shall be considered as specified in paragraphs (d), (e), and (f) of this section.

(h) All contracts may be terminated by the University before their normal expiration date based on the terms of the contracts, or on

- (4) Just cause for dismissal;
- (5) A decision to reduce or terminate a program or a faculty position through program review procedures initially undertaken by the faculty of the Law School.
- (6) A decision to terminate a program or a Librarian Faculty position because of severe, drastic, or emergency institutional situations.

SECTION 3: FACULTY GOVERNANCE

3.1 Faculty By-Laws

Source: Law School Faculty resolutions, most recently December 2018.

3.1.1 Rules of construction and definitions

(a) The accreditation standards of the American Bar Association and the Association of American Law Schools are incorporated by reference into these By-Laws as part of the governing documents of the Seton Hall University School of Law.

(b) Senior Associate Dean means a person holding the title of Senior Associate Dean or Associate Dean, who is a tenured or tenure-track member of the faculty. If there is more than one such Associate Dean, the Dean shall designate one as the Senior Associate Dean for purposes of these bylaws.

(c) Secretary of the Faculty means a Voting Faculty Member designated to take minutes at any meeting; normally the junior most faculty member will be so designated.

(d) Voting Faculty Member, or a similar phrase, means (a) tenured faculty members, (b) tenure-track faculty members, and (c) clinical faculty with long-term contracts including requirements of teaching, scholarship, and service obligations.

(e) The singular includes the plural.

(e) Any feminine pronoun used herein shall be construed to include also the similar masculine pronoun, and vice versa.

3.1.2 Meetings

(a) The Faculty shall have two classes of meetings, regular and special.

(b) Regular meetings shall be held on a Friday in September, October, November, January, February, March, April and May at 2:00p.m. The schedule of meetings shall be established before the beginning of the academic year by the Senior Associate Dean.

(c) Special meetings shall be called on the instance of the Dean or upon the signed petition of five or more Voting Faculty Members, and shall be held not more than 10 days after the service of the petition on the Dean.

(d) Meetings shall end at 5:30p.m., unless the Faculty should vote otherwise by a two-thirds majority.

(e) By majority vote, meetings may be continued to a further day.

3.1.3 Agenda and Minutes

(a) The Dean shall provide the Faculty with a complete agenda, including final committee reports, seven full days before the date of the Faculty meeting at which the agenda is to be considered (e.g., by Friday at 2:00p.m. for a Faculty meeting at 2:00 p.m. the following Friday). Subject to the provisions of paragraph 3.1.3(b), unless copies of the motion and any related committee report have been provided to the Faculty at least seven days before a meeting, a motion must lie over until the next Faculty meeting, when it shall be considered as unfinished business.

(b) All agenda items, including all supporting materials, must be delivered to the Dean in final form at least fourteen full days before the date of the Faculty meeting at which the item is to be considered (e.g., by Friday at 2:00p.m. for a Faculty meeting held at 2:00p.m. Friday in two weeks). The Dean shall have the power to adopt reasonable policies regarding the form and manner of such submissions. Any matter not on the agenda shall not be considered at the Faculty meeting, absent a vote adopted by two-thirds of the members attending the meeting to allow consideration of the matter.

(c) The Dean shall have the following powers and responsibilities in setting the agenda:

1. Refer the reports and recommendations of a committee to other Faculty committee(s)

for action, with a reasonable deadline for action, before consideration by the full Faculty.

2. Review motions and reports before placing them on the agenda, and, when appropriate, assist in drafting and revising them. Such assistance shall apply to the rewording of the texts for the sake of clarity, and not to changing their contents.

3. Refer matters back to the originating committee if the accompanying written report fails to contain adequate information as required by these by-laws.

4. Original reports and recommendations of voting Faculty members shall be subject to the same provisions governing reports and recommendations of a committee under subsection (1) of this sub-paragraph.

5. Defer consideration of any matter not submitted in a timely manner, as provided in paragraph 3.1.3(b) of these by-laws, to the next regular Faculty meeting.

6. The Dean's decision under this paragraph may be appealed by motion to the full Faculty, to be heard at the next Faculty meeting as new business. The motion shall not be debatable but the Dean and the proponent may submit short written statements regarding the motion. Subject to the provisions of paragraph 3.1.3(b), if the motion is approved by a majority vote of the Faculty at that meeting, the item will be placed on the agenda of the following Faculty meeting.

(d) The Secretary of the Faculty shall keep the minutes of every Faculty meeting and the minutes shall include the complete text of all resolutions adopted.

(e) At regular Faculty meetings the order of business shall be:

1. approval of minutes;
2. report by the Dean;
3. reports by the Associate Deans;
4. unfinished business;
5. reports and recommendations of committees;
6. reports and recommendations of voting Faculty members, and
7. new business.
8. Within each sub-heading, items normally shall be considered in the order they are presented to the Dean for inclusion on the agenda. This order can be changed by a vote adopted by two-thirds of the members attending the meeting. The Deans' announcements may be presented in writing.

3.1.4 Rules

(a) In its meetings, the Faculty shall adhere to the simplest possible rules of procedure, but for general procedural background, "Roberts Rules of Order Newly Revised" will guide the

Faculty in cases of dispute.

(b) Meetings shall be chaired by the Dean or, in the Dean's absence, by any Associate or Assistant Dean, provided however, that he or she is a tenured member of the Faculty, or by such other tenured Faculty member as the Dean shall appoint.

(c) The Dean (or other presiding officer) shall respect the principle of neutrality when matters are under debate. If the Dean (or other presiding officer) desires to take a partisan position in a debate, the Dean (or other presiding officer) shall so announce to the body and then relinquish the Chair for the remainder of the consideration of the matter to a tenured Faculty member.

(d) All rulings made by the Chair shall be appealable to the body. Whenever the ruling of the Chair is appealed, the body may by a majority vote of those present and voting reverse the ruling of the Chair.

(e) At the request of any member of the body, voting shall be by secret ballot. In matters of Faculty personnel, voting shall be by secret ballot.

(f) Presentations regarding uncontested matters shall be kept to a minimum. The presenter of any motion shall assume that the body has read any previously presented report, and oral presentations of all matters shall not duplicate such reports.

1. The Dean (or other presiding officer) may present such uncontested matters for a vote online in advance of the meeting. If any matter was incorrectly deemed uncontested, such pre-meeting voting shall be disregarded.

2. The deadline for submission of online votes shall not be earlier than the end of three (3) business days after a matter is submitted for online voting. Any faculty member may, by notice to the Dean or other presiding officer within two (2) business days of any matter being submitted for online voting, require that such matter be decided at a regular or special in-person meeting of the faculty.

3. If fewer than one half of the regular full time Faculty not on sabbatical or leave fail to cast an electronic vote, the quorum requirement of Section 3.1.8 of these Bylaws shall be deemed not satisfied and the results shall not be counted.

3.1.5 Attendance

(a) No person other than Deans of the Law School and Faculty may attend Faculty meetings except:

1. The Chancellor and Provost of the University at their request or on invitation of the Dean or Faculty;

2. Visiting Faculty;
3. The President of the Student Bar Association;
4. Any other person on invitation of the Dean or a majority vote of the Faculty.

(b) Whenever a member of the Voting Faculty believes the matter about to be discussed at a faculty meeting should be conducted in executive session attended only by those entitled to vote on the matter, such member may move to have excluded from the relevant portion of the meeting all persons except voting members and the Dean and Associate Deans. Such motion may pass by a simple majority.

(c) If such motion passes and such exclusion has occurred, any Voting Faculty Member may move to readmit the excluded persons, who shall be readmitted upon a majority vote. The Chair may also, after such exclusion, rule that, the confidential nature of the discussion being terminated, the excluded persons may be readmitted.

3.1.6 Voting Rights

Each Voting Faculty Member as defined in Section 3.1.1(d) shall have one vote except while on leave without pay from the University. The President of the Student Bar Association shall have one vote, except on matters affecting individual Faculty, students or staff and when excluded pursuant to Section 3.1.5(b).

3.1.7 Committees

(a) The following shall be standing Faculty committees: Academic Credentials, Budget, By- Laws/Faculty Guide, Contract Renewal, Curriculum, DASC, Faculty Appointments, Graduation, Independent Research, Grievance, Online/blended Learning Committee, Faculty Life, and Rank and Tenure.

(b) Except as otherwise provided, the Dean shall appoint the Voting and Contract Faculty members and the Deans to all committees. In any year in which any of the foregoing standing committees are expected to be without business, the Dean may defer creation of the committee until needed.

(c) Upon approval by a majority of the Faculty, the Dean may appoint special committees of the Faculty, which shall be constituted as the creating resolution states, or absent such statement as the Dean shall appoint.

(d) (1) All members of the Faculty are eligible to serve on the committees; and all Faculty shall have a vote on any committee on which they serve. No Dean or administrator shall be counted as Faculty for this purpose.

(2) All committees shall be composed of a majority of Voting Faculty. In no event

shall there be fewer than two Voting Faculty members on any constituted standing committee. No Dean or administrator shall be counted as Faculty for this purpose.

(e) Before making appointments of Faculty members to the various committees, the Dean shall solicit from each Faculty member that person's committee preferences, which shall be given all due consideration.

(f) Committee Reports

1. All matters placed on the agenda by a Faculty committee shall be accompanied by a written report containing adequate information on the matter in question. "Adequate information" means information of a kind, and in sufficient detail, as far as is reasonably practicable in light of the nature and history of the matter under consideration, that would enable a hypothetical reasonable member of the Faculty to make an informed judgment about the matter solely by reference to the report.

2. Each committee report and recommendation shall indicate whether in the committee's view faculty action adopting the committee recommendation would require amending the faculty guide. If so, the report should indicate where the proposed action would be recorded in the guide along with recommended language.

3. Whenever a committee remains divided as to its findings or recommendations on matters of substance, it may submit both majority and minority reports, although whenever possible compromise and consensus is encouraged.

4. At any regular Faculty meeting, any voting Faculty member may introduce a motion under the heading of New Business to compel a committee report on a given matter at the next regularly scheduled Faculty meeting.

(g) Duties of Committee Chairpersons. In addition to the express duties provided by other sections of these by-laws, the committee chairperson shall:

1. Schedule meetings and provide the members with reasonable notice regarding the same;

2. Prepare a written agenda or other indication of the topics to be discussed at each committee meeting and provide it to the members reasonably in advance of the meeting;

3. Preside at committee meetings and keep accurate records of committee decisions and attendance;

4. Oversee the preparation of all written committee reports to the Faculty.

5. Answer questions at the Faculty meeting about matters placed on the agenda by the committee or designate a member of the committee to so act.

6. If the Chair is absent or declines to call a meeting, a meeting may be called by any two of its members.

(h) Rank and Tenure Committee:

1. The Rank and Tenure Committee is comprised of the Chair and four other tenured Faculty members. The Chair and members shall be appointed by the Dean with the advice and consent of the Faculty. The Committee membership shall be approved by the Faculty by majority vote on each member individually. It is the responsibility of the Rank and Tenure Committee to make written recommendations to the Faculty Body (as hereinafter defined) with respect to tenure and promotion. The Dean shall not sit with the Committee.

2. The Faculty Body considering tenure or promotion shall, in the case of tenure, consist of all of the tenured members of the Faculty, and in the case of promotion, of all tenured members having a rank equal or superior to the rank sought.

(i) Contract Renewal Committee

1. Appointment—The Contract Renewal Committee shall be comprised of the Chair and four other tenured Faculty members. The Chair and members shall be appointed by the Dean with the advice and consent of the Faculty. The Committee membership shall be approved by the Faculty by a majority vote on each member individually. The Dean shall not sit with the Committee.

2. Responsibility and Recommendations—The Responsibilities of this Committee are addressed in Section 2.1.5 of this Guide.

(j) Faculty Grievance Committee (and Grading Complaints Committee)

- a. The Faculty Grievance Committee is comprised of the Chair and six other tenured Faculty members. The Chair and members shall be appointed by the Dean and approved by a majority vote of the faculty on each individual.
- b. All members of the Faculty Grievance Committee shall receive appropriate training on issues of sexual misconduct, how to conduct a sexual misconduct investigation, and how to participate in a hearing process that protects student safety and promotes accountability.
- c. The Grading Complaints Committee shall be chaired by the Chair of the Faculty Grievance Committee and shall also consist of one other member of the Faculty Grievance Committee and one student member.

(k) Two students shall serve as voting members of all standing Faculty committees except:

(i) Faculty Rank and Tenure, By-Laws, Faculty Life, Grievance, and Contract Renewal, shall not include student members;

(ii) the Appointments Committee, which shall have only one student; and

(iii) the Graduation Committee, which shall have one student fewer than the number of Faculty.

(iv) The resolution creating an ad hoc committee shall specify how many student members are to serve on the committee.

(v) the Grievance and Academic Credentials Committees shall have one student unless a contested hearing is scheduled, in which case the chair shall request the appointment of a second student.

(i) Members of the administration may serve as nonvoting members of appropriate committees.

3.1.8 Quorum

One half of the regular full time Faculty not on sabbatical or leave shall constitute a quorum.

3.1.9 Place of Meetings

All meetings shall take place at such location as the Dean may reasonably determine and specify in the notice of the meeting.

3.1.10 Amendment of By-Laws

(a) A proposal to amend these By-Laws shall be delivered to the Dean and each member of the Faculty at least two weeks in advance of the next regular meeting of the Faculty, at which meeting the matter must be placed on the agenda for consideration. This requirement shall not be construed to prevent a change in the text of the amendment at any meeting at which the amendment is considered.

(b) 1. At the first consideration, the proposed amendment shall be referred to the By-Laws committee for its recommendation.

2. At the next regular meeting of the Faculty, and upon receiving the report of the By-Laws Committee, the amendment may be adopted by a majority of those Faculty present and eligible to vote.

3. If the committee fails to make timely report, the amendment may be adopted by majority vote at that meeting.

(c) Notwithstanding Rule 3.1.4 paragraph (g), a By-Law proposed according to subsection (a) above may be adopted by a two-thirds vote of those Faculty present and eligible to vote without referral to the By-Laws Committee.

3.1.11 Notice

The requirements of notice in these By-Laws shall be met by e-mail notice to Voting Faculty and contract faculty.

3.2 Faculty Guide

Source: Law School Faculty Policy adopted by faculty resolution, September, 2008

3.2.1 Overall Policy

(a) The Faculty Guide is a compilation of policies and procedures of continuing relevance to the faculty at Seton Hall University School of Law. Many of these policies have been directly adopted as faculty resolutions. Other sources include policies developed by the Law School Administration and/or the University Administration, and guidance from the Association of American Law Schools and the American Bar Association.

(b) For each section in the Guide the source or sources of authority are indicated. Each source of authority retains whatever authority it has to amend or repeal policies. The Guide is simply a convenient compilation.

(c) Every effort will be made to conform the Guide to the original sources of policies. In the event of a disparity that has substantive consequences, the original source shall control. This includes any interpretation occurring in discussion at a faculty meeting to a resolution that becomes the source of a provision in the Guide.

3.2.2 Availability and Upkeep of Guide

(a) The Guide shall be made available in up-to-date form on an appropriate Law School internet web space for Law School Faculty. In addition, an updated hard copy may be produced and distributed to all full-time faculty from time to time.

(b) Changes in Policies

(i) Faculty adopted policies Insofar as possible, every proposal for a new or amended faculty policy that is or should be included in this Guide or for repeal or removal of a policy in this Guide should be accompanied by an indication of how the Guide should be amended to reflect the change in policy.

(ii) Administration adopted policies. Insofar as possible, every announcement of a new or amended policy or repeal of a policy affecting the faculty that is or should be in this Guide or for repeal or removal of a policy from this Guide shall be accompanied by an

indication of how the Guide should be amended to reflect the change in policy. This applies both to Law School Administration policies and to Law School Administration announcements of University policies.

(c) Responsibility for updating

(i) Within a reasonable time after a policy appropriate for reproduction in the Guide is adopted, amended, repealed or recommended for removal, by faculty action or administration announcement, as the case may be, the internet version of the Guide shall be updated to reflect the substantive change. The Administration and the By-Laws Committee working together shall ensure that this updating occurs promptly and that the internet version of the Guide reflects the update.

(ii) For changes in faculty approved policies where time is important, the updating need not await faculty approval of the minutes, although the internet version of the Guide update should be verified after the faculty minutes are approved.

(iii) The source entry in a Guide section shall be amended to reflect the date and source of the update, and the front page of the Guide shall also indicate the date of most recent update.

SECTION 4: FACULTY RIGHTS AND RESPONSIBILITIES

4.1 Policy on Tenured Faculty Responsibilities and Monitoring Program

Source: [memo, not dated, adopted by faculty]

4.1.1 Policy on Responsibilities of Full-Time Tenured Faculty

(a) The faculty and the law school adopt the following policy statement to recognize the responsibilities faculty members have to their students, the law school, the legal profession, and the public. The three essential responsibilities include (1) teaching, (2) research and scholarship, and (3) service.

1. Teaching--Each faculty member is expected to teach effectively. This includes meeting class, adequate class preparation, developing new course material when appropriate and carrying a fair share of the law school offerings. The teaching should result in the conveyance of substantive knowledge and the development of analytical skills in an atmosphere conducive to an open exchange of views.

2. Research and Scholarship-- Each faculty member should engage in research and writing. This scholarship provides an important means for faculty to keep abreast of their field thus making them better teachers as well as making a contribution to the understanding of the law. Authoring law review articles is a particularly important part of this process but not the only method of demonstrating scholarship.

3. Service—Each faculty member is expected to engage in service to the law school, the university, the legal profession, and the public.

(i) Law School and University Service- Faculty members have an obligation to carry out their responsibilities for governance of the Law School. This includes attendance at faculty meetings, participation on committees (both university and law school) and other particular assignments. Counseling students and advising moot court programs and other student activities are other forms of service.

(ii) Service to the Legal Profession and to Society- Faculty members should contribute to the development of the law. This can be accomplished by participating in: conferences and workshops for law professors; Supreme Court committees; other governmental advisory committees; activities of the practicing bar at the local, state or national level including active service on bar committees, law revision committees, the American Law Institute, national and local committees devoted to legal education, etc.; and pro bono activities and representation of community groups may constitute service.

The examples set forth above as articles including within teaching, scholarship, and service should be considered as illustrative and not exclusive.

Context:

Faculty should seek to make contributions in all the three categories of teaching, scholarship, and service. However, there is no uniform method of fulfilling these responsibilities.

This policy shall be interpreted and conducted in a manner that is consistent with the preservation of academic freedom.

Further this policy is separate from and may not be substituted, directly or indirectly, for the institutional policies and procedures relating to termination of tenured appointments, which are in no way amended by this policy.

4.1.2 Collegial Monitoring Program for Tenured Full-Time Faculty

(a) The basic means of monitoring is through the sharing of information by each tenured faculty member with his/her colleagues, both deans and professors. At the beginning of each academic year each tenured faculty member shall write a memo to his/her colleagues describing his/her activities and accomplishments during the preceding year. This memo shall include references to each of the categories referred to in the above-mentioned policy on responsibilities—teaching, scholarship and service. It should also set forth a proposed plan of activities for the upcoming year. Each faculty member should feel free to broaden the scope of his/her report to include other circumstances and accomplishments.

(b) If a faculty member's accomplishment in any particular category is significantly less than the usual accomplishments for faculty members, the faculty member should address how their activities on an overall basis are adequate to fulfill their responsibilities.

(c) In the first year of this program faculty members are welcome to set forth a more extended description of activities over the faculty member's tenure at the law school. This can be accomplished by a more extended memo or submission of a resume.

(d) Each faculty member shall make the memorandum available to all faculty and deans by means of hard copy or e-mail.

4.2 Policy Concerning Full-Time Faculty and Non-SHLS Professional Activities

Source: ABA; document posted on Workspace page date Sept. 20, 2003

4.2.1 Full-Time Standard

Full-time faculty shall devote substantially their entire time to the responsibilities of teacher, scholar, and member of the Seton Hall Law School ("SHLS") community. Non-SHLS professional activities are not precluded so long as they do not divert the teacher from these responsibilities. Non-SHLS professional activities (defined as work other than scholarly activities, Seton Hall teaching, and Seton Hall service as defined in Section 4.1.1.3 above, whether compensated or not) presumptively interfere with full-time faculty responsibilities if they exceed an average of one day per week during the school year, and presumptively do not interfere with full-time faculty responsibilities if they do not exceed an average of one day per week during the school year.

The following factors bear on whether non-SHLS activities interfere with full-time faculty responsibilities, and thus on whether the above presumptions are rebutted:

1. the extent to which the outside activity coincides with the full-time teacher's major fields of interest as a teacher and scholar;
2. the character of the professional activity as a source of novel and enriching experience that can be directly utilized in the person's capacity as teacher and scholar;
3. the degree to which the demands of the outside activity interfere with the teacher's regular presence in the Law School and availability for consultation and interchange with students and colleagues; and
4. the extent to which the outside activity may properly be characterized as public service, as distinct from the pursuit of private purposes.

4.2.2 Annual Report on Non-SHLS Professional Activities

Each full-time faculty member shall report annually to the dean, in writing, on the faculty

member's non-SHLS professional activities. The report shall describe the faculty member's non-SHLS professional activities during the previous year, including the number of hours spent and whether the activities were performed for compensation. The report may include any information that bears on the faculty member's compliance with the full-time standard. The collected reports shall be distributed to the full-time faculty.

The Dean shall monitor and enforce compliance with the full-time standard, as well as compliance with this reporting requirement. In determining compliance with the standard, the Dean may request additional information from the faculty member.

4.3 Mandatory Academic Policies

Source: Various faculty resolutions

4.3.1 Grading Policy

An anonymous grading system is utilized at the School of Law for all courses with a final examination.

For most seminars, final grades are based on assigned work, attendance and class participation and the weight of each is in the discretion of the individual faculty member, provided that the weight given to assigned work, attendance and class participation was announced to the students in the first week of class.

JD and LLM Grading System

A+	4.33
A	4.00
A-	3.67
B+	3.33
B	3.00
B-	2.67
C+	2.33
C	2.00
C-	1.67
D+	1.33
D	1.00
F	0.00

4.3.2 Mandatory Grading Curves/Discretion

JD Mandatory Curve

A+ and A	15-25%
A- and B+	15-25%
B	15-25%
B-and C+	10-25%
C and C-	10-25%
D and F	5-15%

(a) Except in required classes, a professor may combine the last two categories of the foregoing grade distribution scheme into a single category with a range of 10% to 25%. For purposes of this rule only, Professional Responsibility shall not be considered a required class.

(b) The curve for required courses is mandatory in classes with more than 25 students except for Professional Responsibility, Appellate Advocacy, and Legal Research and Writing.

(c) Grades in the first three categories of the foregoing grade distribution scheme should not exceed 70% of the overall class.

(d) Whether or not any of the foregoing grade distributions applies, no more than 3% of the student (rounded up to the next whole student) in any class may receive a grade of an A+.

(e) In any class not subject to the foregoing grade distribution, other than clinical, Appellate Advocacy, and Lawyering courses, the mean and median grade shall not exceed 3.67 (A-).

(f) Students may register for an elective class, other than a clinical course, on a Credit/D/Fail basis during one of their final four semesters. The instructor shall set the maximum number of students permitted to use this option, not to exceed 20% of the class. If demand exceeds the number of available Credit/D/Fail slots, the Registrar's Office will approve student requests by random selection. No student may take a class Credit/D/Fail to fulfill their writing requirements. Once the add/drop period ends, students shall not be permitted to change their grading election. The Registrar's Office shall not advise the instructor which students have elected to exercise the Credit/D/Fail option until final grades have been submitted.

4.3.3 Examination Policy

4.3.3.1 Grade Deadlines/Posting

Faculty will have one week to grade their first 42 exams, calculated from the day they receive them from the Registrar. After the first week of grading, faculty will have one day for every additional batch of six exams or fewer (deadlines do not include the period of Christmas Eve to New Year's Day).

Regardless of the timing calculated based on the above formula, for Fall semester grades, all grades for courses with final exams will be due by *the earlier of* the calculated time or the first day of Spring semester classes.

Individual grading deadlines will be given to faculty upon receipt of their completed examinations from the Office of Enrollment Services and will appear on the enclosed transmittal sheet. The deadline will begin 48 hours (business days) after the last student has sat for the exam, (this may depend on whether or not students have been rescheduled to a later date due to examination conflicts), or in the case of self-scheduled exams, 48 hours (business days) after the last day of the examination period, Friday, December 14th.

Faculty who submit their grades later are subject to a \$50 per day fine, to be donated to the public interest fellowship program.

4.3.3.2 Deadline for Non-Examination Grades

The deadline for all grades for clinics, moot court, externships, journals, writing and skills courses, as well as Independent Research, will be determined by the Office of the Registrar on a semester basis.

4.3.3.3 Incomplete/Withdrawal Grades

Grades of "I" (Incomplete) or "WD" (Withdrawal) will be entered on the exam number grade roster after faculty members submit their examination grades. Where faculty members do not have a grade to enter for a student, they should leave the space blank. Do not make notes on the grade rosters. Faculty should use other paper for notes and attach same to the grade rosters.

In any course for which a paper or written assignment is required, whether it be Legal Writing, a seminar, or any other course, such paper or written assignment must be completed and submitted to the faculty member no later than the last day of classes of the semester. Upon application, however, and upon good cause shown, the faculty member may grant an additional period for the completion of such paper. The additional period for the completion of said paper is not to end later than the last day of classes of the semester next following. In such case, the faculty member shall give written notice of the extension to the Associate Dean

prior to the examination period of the semester in which the course was given.

Clinical assignments must be completed to the satisfaction of the director of clinics within 45 days following the last day of classes in the semester.

In any course for which a paper or written assignment is required and in which a letter grade is given and the paper or written assignment has not been submitted as completed to the faculty member on or before the due date, a grade of F shall be entered, such grade to be considered for the purposes of averaging, like any other grade of F.

For any course for which an assignment, written or otherwise, is required and which a grade of Pass/D or F is given and the assignment has not been submitted as completed to the faculty member on or before the due date, a grade of F shall be entered. Such grade will be computed for purposes of averaging and will also be counted as a grade of F in computing the total credits of D and F received and the total number of credits attempted.

4.3.3.4 Grade Changes

Current policy does not permit a change of grade on the basis of a re-evaluation of an examination. Grade changes are permitted only where the faculty member discovers there has been a mechanical error in adding points on questions, transposing grades, etc. Faculty must submit evidence of the mechanical error.

4.3.3.5 Examination Answers

All examination answers are to be retained by faculty members for one year, then may be discarded.

4.3.3.6 Open or Closed Book Policy

Faculty policy dictates that final examinations be entirely open book (students are permitted to bring into the examination room any and all written materials) or entirely closed book (no materials permitted). Faculty who wish to have a limited closed book exam (students have access to certain materials) should submit those materials to the Registrar's Office. The Registrar's Office will reproduce the materials for distribution in the examination room.

4.3.3.7 Calculators

Faculty should mandate that students may only use generic/basic calculators (ones that only do division, subtraction, and multiplication) if allowed at all. Strictly prohibited are calculators that can be used on cell phones, PDA's, graphing/engineering calculators, and any other potentially internet enabled or memory storing devices.

4.3.3.8 Availability During Examinations

Full-time faculty are required to be present in the Law School at the time their examinations are administered unless another member of the faculty is also giving the same examination and is present in the building. If full-time faculty are unable to fulfill this availability for a particular examination, they must make arrangements with the Registrar of their whereabouts during the examination so they can be reached by phone if any questions or difficulties should arise.

Adjunct faculty need not be present during the examination, however, they must provide a phone number where they may be reached.

4.3.4 Class Attendance Policy

The Law School has a standard Class Attendance Policy which requires students to attend a minimum of 75% of class sessions in a course or be administratively withdrawn from the course. Individual faculty members are free to adopt more stringent attendance policies. Each faculty member must announce, in writing, his or her policy regarding attendance, at the first class session of each semester.

Professors will be provided with attendance rosters which will be placed in his/her mailbox. The completed attendance rosters should be returned in either the drop box located on the fourth floor or the drop box located in the main lobby. Faculty may not excuse an absence. No absences beyond 25% are permitted, whether or not there is a good excuse. Faculty may, however, certify that a particular student was in fact in attendance, even though that attendance is not reflected on the attendance roster on that day. Faculty may also determine what counts as attendance (e.g. whether a student who arrives late or leaves early is permitted to sign the roster).

4.4 Sabbatical Leaves

Source: In part University policy, in part Law School policy

The major purpose of a sabbatical leave is to provide the opportunity for continued professional growth and new or renewed intellectual achievement through study, research, scholarly writing, or professionally related travel. The number of sabbatical leaves awarded each year shall depend upon the university's financial ability to meet its continuing obligation to provide a balanced, quality academic program to its student body.

4.4.1 Eligibility

All full-time tenured members of the faculty have the right to apply for sabbatical leave for each period of six (6) years of full-time faculty service with the university, exclusive of time on leave.

(a) Ordinarily, a faculty member shall take sabbatical leave in the seventh, fourteenth, twenty-first, etc. year with the university.

(b) If a sabbatical is taken with more than six years of credited full-time faculty service, those years in excess of six years are credited toward the eligibility requirement for the subsequent sabbatical. There must, however, be a minimum of four (4) years between the taking of sabbatical leaves.

(c) Probationary faculty members are not eligible for sabbatical leave.

(d) Up to two (2) years of faculty service at another accredited institution of higher learning at an unqualified rank may be credited in the letter of appointment toward a faculty member's application for sabbatical leave.

4.4.2 Application and granting procedure

Every applicant must apply for sabbatical leave on forms provided by the Office of the Provost online at the main University website.

(a) Every applicant must state the purpose, as specifically as possible, in applying for sabbatical leave.

(b) Every application must state that the applicant shall continue to serve for at least one (1) year after expiration of the term of the leave unless this provision is waived in writing by the Provost.

(c) Applications must be submitted to the Law School's Rank and Tenure Committee by October 1 of the year preceding the academic year in which the leave is to be taken. However, a faculty member should plan and prepare a sabbatical well ahead of the time he or she submits the application to the department. Then, the Dean shall submit his/her recommendation to the Provost by December 1. The Provost shall take action on applications by the tenured faculty before January 15. The Provost shall not take action on any application by a faculty member who has also applied for tenure until a final affirmative tenure decision is rendered.

(d) At each step of the process the respective body or individual shall inform the applicant and all appropriate parties, in writing, of the recommendations made.

(e) The applicant has the right to appeal from the Dean to the Provost. Should an application for sabbatical leave be denied by the Provost on its merits, after approval by the Dean, the decision of the Provost is appealable to the president of the university.

(f) The department, college, or library endorsement must state that the work of the department, college, or library in which the applicant serves can be so arranged as to be carried forward effectively during the period of the leave. An endorsement should not be contingent upon replacing the applicant during the leave. If the sabbatical is rejected on grounds that a particular applicant's services are necessary, such an application shall not be rejected in a succeeding year on those grounds, nor shall this rejection prejudice the faculty member's eligibility under Section 4.4.1.

4.4.3 Criteria for selection

Every participant involved shall consider the advantages of such leave to the applicant and to the university. Primary consideration shall be given to the academic potential of the faculty member's proposal in terms of its contribution to the discipline, the intellectual development of the individual, or to the strengthening of the Law School or the university. A faculty member's choice of a one- semester or one-year sabbatical is not a criterion for selection.

The Law School's Rank and Tenure Committee must examine carefully the proposed sabbatical project and evaluate it critically before making a recommendation to the Dean. The Dean should weigh the impact of the faculty member's absence on its offerings and consider especially the need for, and expense of, replacement faculty.

4.4.4 Compensation and Expenses

(a) Salary payments during sabbatical leave shall be three-quarters (3/4) pay if the leave is for one (1) year, and full pay if the leave is for one-half (1/2) year. Salary payments are calculated only on the faculty member's base salary.

(b) The granting of sabbatical leave shall not affect the applicant's tenure or any salary increment for which the applicant may be otherwise qualified.

(c) A faculty member on sabbatical leave shall be entitled to the continuation of pension and other fringe benefits provided by the university.

(d) A faculty member on sabbatical leave may accept remunerated employment only with the written approval of the Provost.

(e) A faculty member whose application has been finally approved may compete for University-funded travel and research money in conjunction with her/his sabbatical project.

4.4.5 Sabbatical Report

At the conclusion of a sabbatical leave, the faculty member must submit copies of a report of his/her activities during the period of the leave to the Provost. If the sabbatical ends in the fall semester, the sabbatical report is due by February 15; if it ends in the spring semester, the report is due by July 1.

4.5 Childbearing/Primary Caregiver Policy

Source: Law School Administration Policy

This policy applies to full-time tenure-track, tenured or long-term contract track faculty members who have a child arrive during their employ at Seton Hall Law School.

(a) Faculty members who bear children or who are primary caregivers may exercise one of the following options:

(1) 6 credits of teaching relief for either the semester in which the baby arrives or the following semester, provided that the faculty member is able to fulfill her teaching responsibilities for the previous semester.

(2) 3 credits of leave in the semester that the child arrives, and 3 credits of leave in the semester after the child arrives.

(b) The Associate Dean has the discretion to determine who qualifies as a primary caregiver.

4.6 Faculty Reimbursement Policies

Source: Administration Policy 2018-2019

4.6.1 Travel

Faculty are reimbursed from a fund established each year by the Administration in an amount determined in consultation with the Budget Committee. The fund is divided equally among eligible tenured and tenure-track faculty, exclusive of those whose travel is paid out of Chair or similar funds. Funds unused by eligible faculty may be redeployed among other eligible faculty towards the end of the academic year.

4.6.2 Reprints

The school pays for a reasonable number of article reprints.

4.6.3 Bar Membership

The school pays for membership in the ABA, the AALS, the New Jersey State Bar Association, and one state's licensure fees.

4.6.4 Computers

Faculty may receive one laptop as needed. Faculty must trade in the old laptop to receive the new one.

4.6.5 Professional Organizations

The school will reimburse up to \$250 in membership fees in professional organizations that are necessary to the faculty member's work at Seton Hall Law School as law professor, e.g., ALI.

4.6.6 Social Events

Faculty are not reimbursed for social events for students.

4.6.7 Entertainment

Faculty are not reimbursed for entertainment unless they have been requested to entertain or have received prior approval from the Senior Associate Dean.

4.6.8 Grants and Fellowships

Faculty must provide the award letter for a grant or fellowship to the Associate Dean. A determination will be made as to what portion of the grant or fellowship can be applied to the faculty member's salary and/or professional expenses.

4.7 Fellows Reimbursement Policies

Policies for reimbursement of various expenses for fellows should be set out in the fellowship appointment letter.

4.8 Selection of University Administrators

4.8.1 Faculty participation in searches for University President and Provost

- a. Authority for appointing the President of the University resides with the Board of Regents or its delegates. The Authority for appointing the Provost of the University resides with the President and the Board of Regents, or their delegates.
- b. The faculty of the School of Law shall participate in the search process created by the responsible authorities for the President and Provost of the University.
- c. There shall be search and screen committees the positions of President and Provost of the University.
- d. At least one faculty member from the School of Law shall be appointed to the search and screen committees formed in connection with searches for the positions of President and Provost of the University. The faculty member(s) shall be appointed with the advice of the Dean and faculty of the School of Law.

SECTION 5: FACULTY GRIEVANCE COMMITTEE RULES

Source: This and the following section were adopted by the faculty in October 2019.

5.1 Scope

- a) This section applies to all matters involving:
 1. Allegations of impermissible conduct by a faculty member, the Dean, or an Associate Dean, asserted by members of the Law School community, including Trustees, Regents, officers, students, faculty, administrators, staff members, employees, applicants, vendors, and guests, where such impermissible conduct shall consist of:
 - i. Arbitrary, capricious or substantially unfair application of any rule or regulation of the law school; or
 - ii. Conduct in violation of the University's "Policy Against Sexual Misconduct, Sexual Harassment, and Retaliation" or the University's "Policy Against Discrimination, Harassment and Retaliation."
- b) If the complaint implicates a member of the Faculty Grievance Committee ("the Committee"), the Law School Dean ("Dean"), or the Associate Dean for Academics ("the Associate Dean"), the implicated person shall recuse himself or herself throughout the investigation, hearing, and appeal process. If the complaint is brought against the Dean under subsection 5.1(a)(1)(ii) (or if the Dean is otherwise recused), the Committee shall retain an independent investigator external to Seton Hall to fulfill the investigatory functions of subsection 5.5.3 and the Senior Associate Dean shall assume the responsibilities of the Dean for purposes of handling that complaint. If the complaint is brought against the Associate Dean (or if the Associate Dean is otherwise recused), the Dean shall appoint another individual to assume the responsibilities of the Associate Dean for purposes of handling that complaint.

- c) Except as stated above, the Committee has no jurisdiction over grading or over the administration of the rules and regulations of the law school.

5.2 Faculty Grievance Committee

5.2.1 General Operations

- a) The Committee shall have the power to prescribe regulations and guidelines not inconsistent with the rules set forth in this section, including but not limited to reasonable timelines and limitations not already specified in this section in order to achieve prompt resolution of all complaints.
- b) When conducting general business, such as prescribing generally applicable regulations and guidelines for hearings and other committee proceedings, the Committee shall not have the power to act unless the majority of its membership is present. All such decisions shall be made by majority vote of those present.

5.2.2 Case Adjudication

- a) When the Associate Dean first refers to the Committee a matter pertaining to a particular complaint, the Chair shall identify at random two other non-recused members of the Committee to serve with the Chair on the "case panel," which shall represent the Committee for purposes of acting on all matters arising from that complaint. Once the case panel is identified, the Chair shall immediately notify the Associate Dean and the parties as to the composition of the panel.
- b) In any case involving allegations of grave misconduct that, if proven, could reasonably support the imposition of suspension, dismissal, or other severe sanction, each party may move to replace one (1) member of the case panel without cause, provided that each party submits his or her motion within five (5) days of receiving notification of the panel composition.
- c) The parties shall have the opportunity at any time to move to strike a member of the case panel for good cause. In the event that a party makes such a motion, the panel as a whole shall decide whether good cause exists to replace the panel member.
- d) Each member of the panel shall have the power to recuse himself or herself for good cause.
- e) In the event that a member of the panel is removed or recused, a replacement member of the panel shall be identified at random from those members of the Committee who have not been assigned to the case panel. In the event that the Chair of the Committee is replaced, the panel shall select one of its own members to preside over the case and to assume all powers and responsibilities of the Chair in relation to that case.
- f) In the event that a panel member is replaced and a party has not yet exercised a peremptory challenge to which he or she is entitled, that party may exercise the peremptory challenge against the replacement panel member within five (5) days of being notified of the replacement.

- g) The case panel shall not have the power to act unless all three members of the panel are present.
- h) Unless otherwise indicated, all decisions of the panel shall be made by majority vote.

5.3 Pre-Complaint Procedures

- a) Anyone intending to file a complaint alleging a violation pursuant to subsection 5.1(a)(1) is encouraged first to make an appointment with the Associate Dean to review the matter.
- b) A Law School employee who observes or receives information that a possible violation of subsection 5.1(a)(1)(ii) has occurred shall report that information to the Dean or an associate dean, consistent with the requirements of the Policy Against Sexual Misconduct, Sexual Harassment and Retaliation.

5.4 Informal Procedures

- a) If the Associate Dean determines that informal resolution of a reported matter would result in a prompt, fair, and adequate resolution for the parties involved, the Associate Dean may propose to the person who has reported the allegation that he or she may elect to pursue an informal process.
- b) An informal process may be used only if consented to by both the person reporting the allegation and the person alleged to have committed the violation, and either party may terminate any informal process at any time, without penalty.
- c) No person reporting that he or she was subject to an act of sexual assault (as defined by the Seton Hall Policy Against Sexual Misconduct, Sexual Harassment and Retaliation) shall be asked to mediate or reach a resolution of the report directly with a person alleged to have committed the assault.
- d) The Associate Dean must inform anyone alleging a violation under subsection 5.1(a) that he or she may initiate a formal complaint at any time, regardless of what steps are being or have been taken pursuant to an informal process.

5.5 Complaint Process

5.5.1 Complaints

- a) Upon satisfaction of the requirements set forth by subsection 5.3, an individual may file a formal complaint with the Associate Dean.
- b) The complaint shall be:
 - 1. In writing; and
 - 2. Signed by the complainant, except that in the case of a complaint alleging impermissible conduct under subsection 5.1(a)(1)(ii), the complaint may be signed and submitted by any person on behalf of the complainant, including by the Dean or an associate dean.

- c) A complaint alleging misconduct under subsection 5.1(a)(1)(ii) may be filed at any time. All other complaints shall be filed within 180 days after the occurrence of the last event giving rise to the complaint. If a complaint subject to the 180-day limit is filed beyond this time period, the complainant must allege facts demonstrating that it was impossible to do so earlier or that unusual circumstances justify the delay, taking into account the reasons for the delay, and whether the delay unduly prejudices the respondent.
- d) Any member of the Law School community, including Trustees, Regents, officers, students, faculty, administrators, staff members, employees, applicants, vendors, and guests, may file a complaint.
- e) Simultaneous with the filing of the complaint, the complainant shall send a signed copy of the complaint to all persons against whom relief is sought, except that in the case of a complaint alleging impermissible conduct under subsection 5.1(a)(1)(ii), an associate dean shall provide the complaint to the person against whom the complaint is made.

5.5.2 Answer

After receipt of the complaint, any person against whom relief is sought shall have 15 days in which to respond to the allegations in the complaint. The case panel may extend the time to answer by an additional 10 days if it finds that the 15-day limit would impose a hardship. The response shall be in writing, filed with the Associate Dean, and served upon the complainant.

5.5.3 Actions upon Receipt of the Complaint; Investigation

- a) The Associate Dean shall review the complaint and the answer. If the Associate Dean determines that a complaint is not within the jurisdiction of the Committee, or that the complaint, viewed in the light most favorable to the complainant, fails to allege conduct prohibited by subsection 5.1(a), the Associate Dean shall report that determination with reasons to the case panel. The case panel may overrule the Associate Dean's decision by a majority vote. If the Associate Dean's decision is not overruled by the panel, the Associate Dean shall dismiss the complaint and so inform the complainant in writing. By written notice to the Chair within fifteen days of receiving notice of that dismissal, the complainant may request and shall receive de novo review of the dismissal by the case panel.
- b) If the Associate Dean chooses not to dismiss the complaint, the Associate Dean shall commence an investigation of the allegations set forth in the complaint.
- c) For any complaint alleging impermissible conduct under subsection 5.1(a)(1)(ii), the Associate Dean may at any point in the process retain an independent investigator external to Seton Hall University to conduct the investigation, but not before simultaneously notifying both parties as to the decision to retain an independent investigator and providing both parties an equal opportunity to provide input regarding the selection of the independent investigator.
- d) The investigation shall adhere to the following requirements:
 1. The parties shall be promptly and simultaneously notified of the initiation of any investigation.

2. Each party shall have the right to be represented by an advisor of his or her choosing throughout the course of the investigation.
 3. The parties shall have the right to suggest witnesses to be interviewed during the course of the investigation and present documentary evidence to be considered during the course of the investigation.
 4. Unless extraordinary circumstances warrant otherwise, the investigation shall include individual interviews of the complainant, respondent, and any witnesses.
 5. The investigator shall prepare an initial report that summarizes the relevant evidence and sets forth proposed factual findings in light of that evidence.
 6. The initial report shall be shared promptly and equally with the complainant and the respondent.
 7. Upon receiving the initial report, each party shall have an opportunity:
 - (i) To meet with the Associate Dean together with any investigator; and/or
 - (ii) To respond in writing to the report's conclusions; and/or
 - (iii) To request the gathering of additional evidence.
 8. The Associate Dean, in consultation with any other investigator, shall determine whether to revise the report and/or pursue additional investigation in light of the parties' submissions.
 9. Following the parties' responses to the initial report (and additional investigation, if any, and/or the making of subsequent changes, if any, to that report) the Associate Dean shall produce a final investigative report to the case panel. The Associate Dean shall also make the final investigative report available to each party. The parties shall have the opportunity to file with the panel a written response to the final investigative report.
 10. Neither the initial report nor the final report shall contain any conclusions as to whether the respondent has engaged in conduct prohibited by subsection 5.1(a).
 11. In addition to the provisions set forth above, in all matters involving allegations of impermissible conduct under subsection 5.1(a)(1)(ii), the parties shall be accorded equal rights at each stage of the process.
- e) Upon receipt of the final investigative report, the case panel may act as follows:
1. In the event that the panel concludes that the report is incomplete, the panel may return the report to the Associate Dean with a description of the additional evidence that the panel believes needs to be gathered. At that point, the Associate Dean, in consultation with any other investigator, shall gather the additional evidence required and issue the report pursuant to the procedures set forth in subsection 5.5.3(d)(9).

2. Except in cases involving impermissible conduct under subsection 5.1(a)(1)(ii), the case panel may render a decision without a formal hearing.
3. The case panel may hold a formal hearing.

5.5.4 Interim Measures

In a case brought pursuant to subsection 5.1(a)(1)(ii) or other emergent cause, the respondent may be suspended with pay by the Dean or assigned to other duties during the pendency of the case, if the Dean deems that there is potential harm to others or to the Law School if the respondent continues in his/her current duties. The Dean may also determine and implement other appropriate interim measures as the circumstances of the case warrant.

5.6 Hearing Process

- a) In all cases in which the case panel decides to conduct a formal hearing, the panel shall concurrently give all parties at least 10 days' written notice of the scheduled hearing. The notice shall include a list of witnesses (if any) that the panel plans to have testify at the hearing or documentary evidence the panel plans to consider at the hearing. The parties shall have the opportunity to respond to that notice. In the event the case panel makes any changes to its list of witnesses and/or evidence to be considered at the hearing, it shall promptly notify both parties of any such changes, but any such additions will not re-start the 10-day clock. Either party may request a reasonable extension to prepare for a witness added less than three days prior to a hearing.
- b) The case panel may, if it so chooses, conduct a pre-hearing session with the parties to simplify the issues, effect stipulations of facts, provide for the exchange of documentary or other information, and achieve such other appropriate pre-hearing objectives as will make the hearing fair, effective, and expeditious.
- c) Upon written notice to all parties, with due regard to the rights of the parties, and to the extent permitted by law, the case panel may invite or permit other interested persons to be present or to participate in the hearing.
- d) Extensions of time or rescheduling requests by the parties may be granted by the Chair for good cause.
- e) In any case involving allegations of grave misconduct that, if proven, could reasonably support the imposition of suspension, dismissal, or other severe sanction, the Law School shall provide the Committee with independent counsel external to Seton Hall University.
- f) A complete and verbatim record of the hearing will be kept. At the conclusion of the hearing, the full record, together with all documents or other materials that have been introduced during the hearing, will be made available to either party for copying at the requesting party's cost.
- g) The complainant and respondent shall have the following rights:

1. The right to represent themselves or to select a representative from among the law school faculty or student body or to select other legal counsel.
2. The right to testify on their own behalf.
3. The right to cross-examine any witness questioned by the case panel, except that in cases involving allegations of sexual assault, dating violence, domestic violence, or stalking under the University Policy Against Sexual Misconduct, Sexual Harassment and Retaliation, the respondent may not directly cross-examine the complainant but rather may instead cross-examine the complainant through a representative or submit specific questions to be asked of the complainant by the case panel.

5.7 Decisions

5.7.1 Initial Decisions

- a) For all complaints, a violation may be found only if sustained and supported by the preponderance of the evidence.
- b) If the case panel finds that a violation has occurred, the panel shall issue a decision explaining the basis of its determination and may award such relief as is authorized by and consistent with the rules and regulations of the Law School, except that the panel may not impose suspension, dismissal, or any other severe sanction for grave misconduct unless it has first held a hearing pursuant to subsection 5.6 or the respondent has agreed to the specified sanction.
- c) In all cases the case panel shall render a written decision and serve copies on all parties in interest and file a copy with the Dean.
- d) The case panel's decision becomes final 15 days after service and filing, unless:
 1. Reconsideration is sought under subsection 5.7.2; or
 2. An appeal is taken under subsection 5.7.3; or
 3. The panel has recommended the imposition of suspension, dismissal, or another severe sanction.
- e) The deliberations of the case panel in reaching any decision under these rules are confidential.
- f) The case panel shall notify all parties in writing of all decisions. The panel may notify any other persons whom the panel determines should receive notice of its decisions.
- g) If the case panel proposes to base its decision in whole or in part upon any facts not contained in the record before it, the panel shall notify the parties of such facts and permit them an opportunity to comment in writing prior to any decision on the matter.

- h) If the case panel has not acted upon a complaint within 60 days, the Chair shall provide a status report to the parties that indicates the expected date of action by the panel.

5.7.2 Reconsideration of Decisions

- a) The Dean or any party in interest may, within 10 days of receiving a decision from the case panel, request that it be reconsidered by filing with the panel, and serving on all parties in interest, a written statement setting forth the grounds for reconsideration.
- b) The Dean or any other party in interest may respond to the request for reconsideration within 10 days. The case panel shall act promptly upon the request for reconsideration and give written notice of its action to the Dean and all parties in interest.
- c) The Dean has the power to disapprove the reconsidered decision within 5 days, except that the Dean shall have no power to disapprove of such reconsidered decision if the Dean is implicated in a complaint as set forth in subsection 5.1(b).

5.7.3 Appeal to the Faculty

- a) The Dean or any party in interest has the right to appeal a final decision to the faculty in the following cases only:
 - 1. Where the Dean has sought reconsideration under subsection 5.7.2, or has disapproved the case panel's decision after reconsideration under subsection 5.7.2; or
 - 2. Where a member of the case panel has filed a written dissent; or
 - 3. Where the Dean is implicated in the complaint and the case panel renders a final decision; or
 - 4. Where the case panel has imposed suspension, dismissal, or another severe sanction.
- b) Any appeal shall be initiated by filing with the Chair a Notice of Appeal setting forth the grounds for the appeal within 20 days of the service of the final decision.
- c) Upon receiving a Notice of Appeal pursuant to subsection 5.7.3(b), the Chair shall cause the matter to be placed on the agenda of the next faculty meeting.
- d) Any faculty members who are implicated in a complaint, who participated in the investigation of the case, or who served on the case panel are not eligible to participate in any faculty decision in that case. Any faculty members who have not received prescribed training are not eligible to participate in any faculty decision in a case involving impermissible conduct under subsection 5.1(a)(1)(ii).
- e) Except as provided by subsection 5.7.3(g), and when a quorum is present, the faculty, by majority vote of those present, may decide the matter with or without further hearing and may affirm, reverse, or modify the decision or remand the matter with instructions for further proceedings.

- f) For purposes of a faculty decision under this section, a quorum of the faculty shall consist of a majority of faculty members eligible to participate in that decision.
- g) In any appeal involving a suspension, dismissal, or another severe sanction, the following requirements shall apply:
 - 1. The decision of the case panel shall be subject to review by the tenured faculty eligible to participate in a faculty decision under this section.
 - 2. The complainant and respondent shall be afforded an opportunity to address the participating faculty, but they shall not be present for the ensuing deliberations and vote of the body.
 - 3. The participating faculty may impose the proposed sanction only by at least 2/3rds vote of those present.

5.7.4 Service

Service of all materials on all parties shall be by electronic or paper mail and shall be effective upon mailing.

5.7.5 Confidentiality

- a) All members of the Committee shall keep in confidence all aspects of each case.
- b) All records of the case panel's proceedings shall be kept confidential, unless the Dean or the full faculty authorizes otherwise consistent with the requirements of the Family Educational Rights and Privacy Act (FERPA).
- c) Findings of discrimination shall be reported by the Senior Associate Dean to the University's Office of Compliance.

SECTION 5A: GRADING COMPLAINTS COMMITTEE RULES

5A.1 Jurisdiction

- a) The Grading Complaints Committee (“the Committee”) has jurisdiction to hear student allegations of arbitrary, capricious or bad-faith grading procedures, such as a breach of anonymity, a professor's failure to read the examination, materially misleading examination terms, an examination wholly unrelated to course content, or other procedure that is egregiously unfair. The Committee shall have no jurisdiction to review the substantive grade decision of another faculty member, only to hear allegations challenging a faculty member's grading procedures. An arbitrary grading procedure is not established by the absence of a model answer, the fact that the professor has not provided a written explanation of the grade provided, or by comparison of the grades with the grades for other papers. The Committee shall have no jurisdiction to re-evaluate, re-grade, or rescore a student's examination. The Committee shall have jurisdiction to recommend relief under this subdivision only if the Committee finds that a faculty member's grading procedure was arbitrary, capricious, or in bad faith.
- b) If the complaint implicates a member of the Committee, the Committee shall accept jurisdiction, but the implicated member shall recuse himself or herself throughout the committee and appeal process. The Chair shall replace that person with another individual eligible to serve as a member of the Committee.
- c) Except as stated above, the Committee has no jurisdiction over grading or over the administration of rules and regulations of the law school.
- d) No decision of the Committee shall be made nor any hearing held unless there is a quorum present, which shall consist of a majority of the Committee membership. A majority of such quorum shall consist of full time tenured or tenure track faculty.

5A.2 Pre-Complaint Procedures

A student intending to file a complaint shall first make an appointment with the professor to review the examination. If after meeting with the professor, the student believes that jurisdiction may exist under Section 5A.1, the student shall then make an appointment with an Associate Dean to review the matter. After meeting with an Associate Dean, the student may then file a complaint with the Committee.

5A.3 Complaint Process

5A.3.1 Complaints

- a) The jurisdiction of the Committee is invoked only by the filing of a complaint with the Chair.

b) The complaint shall:

1. be in writing;
2. be signed by the complainant;
3. state as fully as possible the facts and the nature of the evidence on which the student misconduct or grievance is based;
4. state the relief requested; and
5. state how and when the pre-complaint procedures set forth in section 5A.2 were satisfied.

c) The complaint shall be filed within 60 days after the occurrence of the last event giving rise to the complaint. If the complaint is filed beyond this time period, the complainant must allege facts demonstrating that it was impossible to do so earlier or that extraordinary circumstances prevented the complainant from acting sooner.

5A.3.2 Answer

After receipt of the complaint, any person against whom relief is sought, shall have 15 days in which to respond to the allegations in the complaint. In cases of hardship, the time to answer may be extended an additional 10 days. The response shall be in writing, filed with the Chair, and served upon the complainant.

5A.3.3 Actions Upon Receipt of the Complaint

a) Initial Review of Complaint—The Chair shall initially review all complaints. If the Chair determines that a complaint is not within the jurisdiction of the Committee or on its face is insubstantial, the Chair shall report that determination with reasons to the Committee. The Committee may overrule the Chair's decision by a majority vote. If the Chair's decision is not overruled by the Committee, the Chair shall dismiss the complaint and so inform the complainant in writing. By written notice to the Chair within fifteen days of receiving notice of that dismissal, the complainant may request and shall receive de novo review of the dismissal by the Committee.

b) Upon receipt of the complaint and answer, if any, and the report of any investigation, if any, the Committee may:

1. dismiss the matter;
2. refer the matter to another Committee;
3. conduct a formal hearing;
4. decide the merits of the dispute based on the papers submitted, subject to the provisions of 5A.4.1(a);
5. informally meet with the parties to resolve or decide the matter;
6. invite additional written statements from the parties or any other person the Committee deems appropriate;
7. order a further investigation of the matter; or
8. proceed in any other manner the Committee deems appropriate.

c) The Committee shall notify all parties in writing of all Committee decisions. The Committee may notify any other persons whom the Committee determines should receive notice of its decisions.

- d) All decisions of the Committee under this section shall be made by a majority of the Committee members present and in accordance with the provisions of 5A.1(d).
- e) If the Committee proposes to base its decision in whole or in part upon any facts not contained in the record before it, the Committee shall notify the parties of such facts and permit them an opportunity to comment in writing prior to any decision on the matter.
- f) If the Committee has not acted upon a complaint within 60 days, the Committee Chair shall provide a status report to the parties that indicates the expected date of Committee action.

5A.4 Hearing Process

To the extent feasible and practicable, the Committee shall conduct any formal hearing under this Section in accordance with the requirements set forth in Rule 5.6 of the Faculty Grievance Committee rules.

5A.5 Decisions

5A.5.1 Committee Decisions

To the extent feasible and practicable, the Committee shall render its decisions under this Section in accordance with the requirements set forth in Rule 5.7.1 of the Faculty Grievance Committee rules.

5A.5.2 Reconsideration of Decisions

To the extent feasible and practicable, the reconsideration of decisions rendered under this Section shall be governed by the requirements set forth in Rule 5.7.2 of the Faculty Grievance Committee rules.

5A.5.3 Appeal to the Faculty

To the extent feasible and practicable, appeals to the faculty of decisions rendered under this Section shall be governed by the requirements set forth in Rule 5.7.3 of the Faculty Grievance Committee rules, provided that a faculty member shall have the right to appeal to the faculty a decision finding as arbitrary, capricious or in bad faith the grading procedure by that faculty member.

5A.5.4 Service

To the extent feasible and practicable, the service of all papers shall be governed by the requirements set forth in Rule 5.7.4 of the Faculty Grievance Committee rules.

5A.5.5 Confidentiality

To the extent feasible and practicable, the confidentiality of Committee proceedings shall be governed by the requirements set forth in Rule 5.7.5 of the Faculty Grievance Committee rules.

Appendix I

2.4 Hiring, Reviewing and Retention of Long Term Clinical Contract Faculty

Source: Faculty resolution, January 18, 2002 [note, may have been superseded and may therefore require re-authorization]

(a) The long term contract track shall be comprised of full time clinical faculty whose positions are specifically identified as such at the time they are hired. No position will be designated a long-term contract position unless it is funded by law school money, an endowment, or long-term grants such as the New Jersey Legal Services Fund.

(b) All long term contract hiring shall be through the usual Faculty Appointments Committee process.

(c) For the first five years of employment, all long term contract track clinical faculty will receive yearly probationary contract identical or substantially similar to those of the tenure track faculty. No member of the long term contract track clinical faculty shall be given a subsequent probationary contract if the faculty member fails to make satisfactory progress toward the standards set forth in this document, as determined by the Dean, who shall consult with the Director and review the evaluations performed by the Director and faculty in accordance with paragraphs (e) and (f). The timing of notification of non-renewal shall conform to university standards applicable to tenure track faculty.

(d) All current full time clinical faculty hired prior to July 1, 2000, are approved for the long term contract track and shall be given credit, at their option, towards their initial five year probationary period for any of their years of full time clinical employment prior to July 1, 2000.

(e) The Director of the Center for Social Justice shall evaluate each member of the long term contract clinical faculty on an annual basis in accordance with the evaluation standards set forth in this document. These evaluations shall be filed with the Dean and the Associate Dean and copies shall be supplied to the Center for Social Justice Committee.

(f) In addition to the Director's annual evaluation, each member of the long term contract clinical faculty shall be evaluated at the end of the faculty member's second and fourth year in the initial five year probationary period by a two member team of the tenured faculty. These evaluations shall be conducted in accordance with the evaluation standards set forth in this document. After a clinical faculty member has been awarded a long term contract, the two member faculty evaluation shall be conducted at the end of the faculty member's third year of each five year contract. The Associate Dean shall designate the tenured faculty to conduct these evaluations. These faculty evaluations shall be filed with the Dean and the Associate Dean and copies shall be supplied to the Director of the Center for Social Justice and the Center for Social Justice Committee.

(g) During the fifth or sixth probationary year, a long term contract track clinical faculty member may apply, on or before October 1, for a renewable five year term contract. The

standards for long term contracts shall include excellent lawyering, teaching, scholarship, and service. The requirement of excellent scholarship shall be evidenced by at least one publication in a law review or other independently professionally published work, which may be supplemented by significant briefs or outstanding written class materials, each of which demonstrates the requisite high quality.

(h) No five-year contract shall be granted unless approved by both the Director and the Dean. The Director shall act in consultation with the Center for Social Justice Committee. If approved by the Director, the Director shall forward, on or before November 1, the application, all evaluations by the Director and the faculty made pursuant to paragraphs (e) and (f), and the Director's recommendation, to the Chair of the Rank and Tenure Committee. The Rank and Tenure Committee shall review these materials, employing a process substantially similar to that used for tenure track faculty. The Chair of the Center for Social Justice Committee shall participate as a member of the Rank and Tenure Committee in this process. The Rank and Tenure Committee shall make a recommendation regarding contract approval to the tenured faculty and clinical faculty with long-term contracts. Upon receipt of the recommendation of the Rank and Tenure Committee, the tenured faculty and clinical faculty with long-term contracts shall make a recommendation to the Dean regarding long term contract approval.

(i) A long term contract track clinical faculty member who is not granted a five-year long term contract by his or her sixth year shall be given a one year terminal contract for the following academic year.

(j) During the fifth year of a five-year contract, a long term contract clinical faculty member may apply, on or before October 1, for another renewable five-year contract. The standards and processes for granting renewal shall be those set forth for the granting of an initial long term contract.

(k) A long term contract may be terminated by the University based on

1. a decision to reduce or terminate a program or a faculty position through program review procedures initially undertaken by the faculty of the Law School, or
2. a decision to reduce or terminate a program or faculty position because of unforeseen, severe, drastic, or emergency institutional situations.

(l) Either a probationary or a long term contract may be terminated by the University at any time for just cause.

(m) The establishment of this long term contract track for full-time clinical faculty does not preclude the hiring of other clinical faculty, or fellows into positions of a limited duration.

2.4.1 Evaluation Standards for Hiring Long Term Clinical Faculty

2.4.1.1 Evaluation of Lawyering

The lawyering evaluation shall consider:

- (a) client relationships, including interviewing, counseling & communication skills;
- (b) planning of representation, including exercising the problem-solving skills of developing objectives of the representation, case theory and strategy, and planning for dealing with contingencies;
- (c) legal research and analysis, including command of both relevant substantive and procedural law and written work;
- (d) fact gathering and investigation, including presenting persuasive fact narratives, compiling documents, and following up with witnesses;
- (e) other litigation skills, including negotiation skills, as well as behavior with judges and attorneys;
- (f) case management, including ability to meet deadlines, engage in preparation, maintain files, and provide a quick response in emergencies;
- (g) sensitivity to ethical questions, including knowledge of the ethics rules and an ability to recognize and respond to ethical dilemmas;
- (h) compliance with overall clinic policies, including restrictions on the outside practice of law, maintenance of attorney license, etc.

2.4.1.2 Evaluation of Teaching

The teaching evaluation shall take into account:

- (a) student supervision, including thorough preparation of students before court appearances, supervising students' research and writing, engaging in regular, complete case reviews, and maintaining ongoing contact with students as needed, i.e., being regularly available to students and providing step-by-step assistance;
- (b) classroom teaching skills, including preparation of class sessions, class materials, and syllabus, as well as a balancing the teaching of both substance and advocacy/lawyering skills;
- (c) sensitivity and attention to pedagogical issues, such as developing a range of cases to give students a broad experience of lawyering, and teaching students to be self-correcting reflective practitioners;
- (d) engaging in scholarship where appropriate to enhance the above activities;
- (e) participating in clinic-wide pedagogical activities as needed, such as working to improve the curriculum

2.4.1.3 Evaluation of Scholarship

The scholarship evaluation shall take into account:

- (a) writing skills, including clarity, organization, persuasiveness, accuracy, and other written communication skills;
- (b) analytical ability, including an in-depth understanding of relevant areas of the law and ability to apply that understanding and insight effectively to particular cases and legal issues;
- (c) ability to develop a broad perspective on the relevant area of the law, including an understanding of its relationship to lawyering, professional role and responsibility, and the legal system in general

2.4.1.4 Evaluation of Service to the Law School and the Profession

Evaluation of service shall take into account:

- (a) contributing to development of the clinical program and cooperating with other faculty as needed, including sharing expertise, covering for other colleagues during authorized absences, assuming administrative work as appropriate, attending meetings, etc.;
- (b) developing an awareness of the social justice issues involved in representation, and encouraging continued involvement in pro bono activities;
- (c) participation in improving the profession through service activities, involvement in professional organizations, etc.

2.4.2 Evaluation Process

Faculty evaluations of each long term contract clinician will be conducted by a two person team of the tenured faculty.

1. The faculty team will begin the evaluations by interviewing the clinician who will prepare a written self-report outlining the clinician's accomplishments in the clinic and setting goals for the next year.
2. The faculty team will review files, sit in on or review videotapes of a case review session (after settling confidentiality issues), attend a court appearance or its equivalent, attend or videotape a client interview with the client's permission, review curricular materials, attend a classroom session, obtain feedback from students and judges, and consider official student evaluations.
3. The evaluation shall seek to evaluate the clinician's methods in the complete context of the clinician's activities as a whole rather than focusing on separate individual components.

4. The faculty team will prepare a written report of its conclusions, based on and addressing the criteria outlined above, as well as detailing any areas that need improvement, and will share the report with the clinician.

The Director will not participate in the faculty team evaluations, but will conduct an independent evaluation of each clinician according to the same criteria set forth in this document.

2.4.3 Granting a Committee Vote for All Long Term Contract Track Clinical Faculty

All long term contract track clinical faculty shall be appointed to standing faculty committees as well as to task oriented committees, except that no appointment of a clinical faculty member shall be made to a committee specifically designated for membership by tenured or tenure-track faculty only.

Long term contract track clinical faculty shall have a full vote on any committee to which they are appointed.