

**NOTE 9/5/18: The law faculty approved an extended section of school rules addressing the Faculty Code-specified decanal review process (Rule 4.5). Because of concerns with Faculty Code compliance, the Provost has approved all Law School Faculty Rules with the exception of Rule 4.5. This version of the Rules, now posted on the Provost's website, reflects what has been approved. Upon approval of a revised Rule 4.5, an updated version will be posted.**

**THE GEORGE WASHINGTON UNIVERSITY LAW SCHOOL**  
**FACULTY RULES**  
**Articles I-III adopted 2/23/18**  
**Article IV adopted 3/16/18**

**1. General Rules of Organization and Procedure.**

1.1 Administration of the Law School.

1.1.1 The Dean. The Dean of the Law School is the chief administrative officer. The Dean is appointed by the Board of Trustees, upon recommendation of the president with participation by the faculty. The Dean is responsible to the president through the vice president for academic affairs. The Dean serves at the pleasure of the president.

1.1.2 Duties of the Dean. The Dean is responsible for the supervision and development of all of the resources of the school: the instructional and research programs, the faculty and teaching staff, the physical facilities in use by the school, and the financial resources necessary for its program. The Dean presides at faculty meetings, and, with the faculty, develops its policies in keeping with University-wide guidelines. The Dean recommends appointments, promotions, tenure, and changes of faculty status based upon recommendations of the faculty. The Dean sees that the principles stated in The George Washington University Faculty Code ("*Faculty Code*") in regard to such actions are carried out.

1.1.3 Budget and Finances. With the assistance of the faculty, the Dean prepares annual and long-term budgets, and in consultation with the vice president for academic affairs, is authorized to control the expenditures of the unit, within the limits of the allocations made to it by the Board of Trustees upon the recommendation of the president. The Dean may request and defend the need for further allocations, but in consultation with the vice president for development, has foremost the responsibility to assume leadership in attracting external funds to the Law School for the development of its facilities, programs, and staff.

1.2 The Faculty.

1.2.1 Persons Included. The faculty of the Law School comprises Regular Faculty, Specialized Faculty, and Limited Service Members, such persons to be appointed, reappointed, promoted, tenured, granted leave, discharged, and retired in accordance with the provisions of these Rules and the *Faculty Code*.

- 1.2.2 Governing Body of the Law School. The governing body of the Law School is the Law School's Full-service Faculty. The Law School faculty is a continuing body.
- 1.2.3 Full-service Faculty Member Defined.
- 1.2.3.1 Included. A Full-service Faculty Member is any Traditional Faculty Member, Clinical Track I Faculty Member, Clinical Track II Faculty Member, Clinical Non-tenure-track Faculty Member, the Director of the Law Library, the Director of Legal Research and Writing, or any LRWP Faculty Member. A Full-service Faculty Member shall hold an appointment as Professor of Law, Associate Professor of Law, Professor of Clinical Law, Associate Professor of Clinical Law, Professor of Legal Research and Writing, Associate Professor of Legal Research and Writing, Professor of [Specialty] Law, or Associate Professor of [Specialty] Law. A Full-service Faculty Member may be in active service or on leave of absence. A Full-service Faculty Member may hold an additional appointment such as a [Name] Research Professor of Law or Director or Associate Director of a program. A Full-service Faculty Member may also hold an appointment to another degree-granting unit of The George Washington University.
- 1.2.3.2 Excluded. A faculty member who does not meet the definition set out in Rule 1.2.3.1 is not a Full-service Faculty Member notwithstanding a title such as Research Professor of Law or Director or Associate Director of a program.
- 1.2.3.3 Effect of Part- or Full-time Employment. A faculty member holding a part-time position, by virtue of position-sharing, partial retirement under Article VII.D of the *Faculty Code*, or otherwise, shall not by virtue of such faculty member's part-time responsibilities alone be considered a "Limited Service Member," as defined in Rule 1.2.11, or a "Part-time Faculty Member" as defined in Rule 1.2.12. A faculty member who does not meet the definition of Rule 1.2.3.1 is not a "Full-service Faculty Member" even if employed by the Law School full time.
- 1.2.4 Regular Faculty Member Defined. Any Traditional Faculty Member, Clinical Track I Faculty Member, or Clinical Track II Faculty Member is a Regular Faculty Member. A faculty member who is a Clinical Non-tenure-track Faculty Member, Director of Legal Research and Writing, Director of the Law Library (if not tenured or on a tenure track), or LRWP Faculty Member is a Regular Faculty Member if such faculty member has accepted an additional appointment as a Research Professor of Law or otherwise has undertaken a responsibility for research, either by virtue of the faculty member's appointment letter dated on or after January 1, 2018 (see Rules 1.2.14 and 2.14) or as contemplated by Rule

3.10.8. Faculty members who have a regular (as defined in the *Faculty Code*) or tenured appointment at another University are not Regular Faculty Members.

1.2.5 Specialized Faculty Member Defined. A Specialized Faculty Member is any Full-service Faculty Member who is not a Regular Faculty Member and who does not hold a regular (as defined in the *Faculty Code*) or tenured appointment at another University.

1.2.6 Traditional Faculty Member Defined. A Traditional Faculty Member is a Full-service tenured or tenure-track faculty member who is not on a clinical tenure track. A Traditional Faculty Member shall hold an appointment as Professor of Law or Associate Professor of Law.

1.2.7 Clinical Faculty.

1.2.7.1 Clinical Non-tenure-track Faculty Member Defined. A Clinical Non-tenure-track Faculty Member is a Full-service Faculty Member appointed before January 1, 2018 who teaches primarily clinical courses and who is not tenured or on a tenure track. A Clinical Non-tenure-track Faculty Member shall hold a non-tenure-accruing appointment for a contractual period as Professor of Clinical Law or Associate Professor of Clinical Law.

1.2.7.2 Clinical Track I Faculty Member Defined. A Clinical Track I Faculty Member is a Full-service Faculty Member who teaches primarily clinical courses and who has received tenure on Clinical Track I. A Clinical Track I Faculty Member shall hold an appointment as Professor of Clinical Law.

1.2.7.3 Clinical Track II Faculty Member Defined. A Clinical Track II Faculty Member is a Full-service Faculty Member who teaches primarily clinical courses and who has received tenure on Clinical Track II or who has a tenure-track appointment on Clinical Track II. A Clinical Track II Faculty Member shall hold an appointment as Professor of Clinical Law or Associate Professor of Clinical Law.

1.2.7.4 Any Full-service Faculty Member who holds the title of Professor of Clinical Law or Associate Professor of Clinical Law may publicly use the title of Professor or Associate Professor of Law (whichever is appropriate) without otherwise specifying the holder's clinical status.

1.2.8 Director of Legal Research and Writing Defined. The Director of Legal Research and Writing is a Full-service Faculty Member who directs the Legal Research and Writing program. The Director shall hold a non-tenure-accruing appointment for a

contractual period as Professor or Associate Professor of Legal Research and Writing and Director of the Legal Research and Writing Program.

- 1.2.9 Director of the Law Library Defined. The Director of the Law Library is a Full-service Faculty Member who directs the Law Library. The Director of the Law Library may hold a tenured, tenure track, or non-tenure-accruing appointment for a contractual period as determined by the faculty at the time of appointment. The Director of the Law Library shall hold an appointment as Professor or Associate Professor of Law and Director of the Law Library.
- 1.2.10 LRWP (Legal Research and Writing and Program) Faculty Member Defined. An LRWP Faculty Member is a Full-service Faculty Member who does not teach primarily clinical courses, who is not tenured or on a tenure track, and who is not the Director of Legal Research and Writing or the Director of the Law Library. An LRWP Faculty Member who teaches primarily non-clinical legal research and writing courses shall hold a non-tenure-accruing appointment for a contractual period as Professor or Associate Professor of Legal Research and Writing and may also hold the title of Associate Director of Legal Research and Writing. Any other LRWP Faculty Member shall hold a non-tenure-accruing appointment for a contractual period as Professor of [Specialty] Law, or Associate Professor of [Specialty] Law and may also hold the title of Director of [Program], Co-Director of [Program], or Associate Director of [Program].
- 1.2.11 Limited Service Member Defined. A Limited Service Member is a faculty member other than a Full-service Faculty Member. A Limited Service Member shall hold an appointment as Professor Emeritus of Law, Associate Professor Emeritus of Law, Visiting Professor of Law, Visiting Associate Professor of Law, Visiting Professor of Clinical Law, Visiting Associate Professor of Clinical Law, Visiting Professor of [Specialty] Law, Visiting Associate Professor of [Specialty] Law, Professor of Law (by courtesy), Associate Professor of Law (by courtesy), Assistant Professor of Law (by courtesy), Research Professor of Law, Adjunct Professor of Law, or Professorial Lecturer in Law. Part-time Faculty Members who hold the title of Professorial Lecturer in Law are popularly known, but not formally appointed, as “adjuncts.”
- 1.2.12 Part-time Faculty Member Defined. A Part-time Faculty Member is a faculty member holding an appointment as Adjunct Professor of Law or Professorial Lecturer in Law.
- 1.2.13 Tenured Faculty Member Defined.
  - 1.2.13.1 Qualifying Appointments. A Tenured Faculty Member is a Full-service Faculty Member who holds an appointment as Professor of Law, Associate Professor of Law, Professor of Clinical Law or Associate Professor of Clinical Law with continuous tenure.

1.2.13.2 Limitations.

1.2.13.2.1 Director of the Law Library. It is understood that the granting of tenure to the Director of the Law Library will be based on a binding commitment of the Director to remain in the position of Director throughout the Director's career at the Law School. Should the Director resign the position of Director, or be removed therefrom for cause as defined by University regulations, the Director shall not, as a matter of right, be entitled to remain on the faculty in another capacity.

1.2.13.2.2 Clinical Track I or II. The granting of tenure to a faculty member on Clinical Track I or II is based on an understanding that the faculty member will continue to teach primarily in the clinic throughout such faculty member's career at the Law School although, with approval of the Dean, such faculty member may be assigned to teach a non-clinical course. Should a tenured clinical faculty member resign such faculty member's position in the clinic or be removed therefrom for cause as defined by University regulations, the clinical faculty member shall not, as a matter of right, be entitled to remain on the faculty in another capacity.

1.2.14 Appointment, Promotion, Tenure Grants, and Termination of Faculty. The Dean of the Law School shall make recommendations to the president and the Board of Trustees in all matters of appointment, promotion, the granting of tenure, and termination procedures, subject to the approval of the faculty.

1.2.14.1 The Dean shall ensure that all appointments conform to these Rules.

1.2.14.2 The Dean shall ensure that a faculty member's appointment letter or other contractual document accurately states the duties of the faculty member's position and does not state that the faculty member has a duty to perform research, teaching, or service unless the faculty member has such a duty under these Rules.

1.2.14.3 The Dean shall, before execution of an appointment letter relating to an appointment to a full-service, non-tenure-track position, provide for the Appointments Committee's review under Rule 2.1.4.4 an appropriately redacted copy of the proposed letter.

- 1.2.14.4 The Dean shall ensure that all appointment letters or other contractual documents state that a faculty member's appointment is subject to these Rules and to the *Faculty Code*.

#### 1.2.15 Duties and Powers of Faculty.

- 1.2.15.1 Faculty members are individually responsible for conforming to all policies, rules, and regulations adopted by the University and/or the faculty of the Law School, and to the reasonable administrative requirements of the University.
- 1.2.15.2 Subject to the Board of Trustees and general University educational policies and objectives, the Full-service Faculty of the Law School formulates educational policy and objectives for the Law School, decides questions of academic policies and objectives, and adopts such schemes of organization and administration for the Law School as are necessary to such policies. The power to establish educational policies and objectives and to provide organizational means for realizing such policies may be delegated, subject to limitations of the *Faculty Code* or as otherwise provided herein.
- 1.2.15.3 Teaching Loads, Service Assignments, and Outside Activities. The Dean shall ensure that teaching loads and service assignments for a Regular Faculty Member are structured so that during the term of the faculty member's appointment, consistent with the University's needs, the faculty member has a reasonable opportunity to generate evidence of teaching ability and productive scholarship. Faculty members shall not permit their research to interfere with their teaching duties. Regular Faculty Members shall comply with provisions of the Faculty Code regarding outside work.

#### 1.3 Faculty Committees.

- 1.3.1 Composition. Faculty Committees may include Full-service Faculty, staff, students and others. Students, staff and others have such rights on the committees as the Full-service Faculty may determine, including the right to have their votes reported to the faculty, but their approval shall not be required for the committees to take actions or make recommendations within their jurisdiction.
- 1.3.2 Special Committees. The Law School faculty may from time to time appoint special committees to include students, faculty, and others as provided by motion. The Dean may from time to time appoint special committees to include students, faculty, and others.

1.3.3 Dean's Council. The members of the Dean's Council are appointed by the Dean of the Law School to serve the Dean in an advisory capacity. The Dean's Council has no authority other than that delegated to it by the Dean or the faculty.

1.3.4 Committee Service. Except as otherwise provided in these Rules, all members of the Full-service Faculty may serve on all faculty committees.

1.3.5 Committee of the Whole and School-wide Personnel Committee Defined. Subject to the limitations specified in Rule 1.8, this Rule 1.3.5 constitutes the election of the Regular Faculty to (1) act as a committee of the whole with respect to the appointment of Full-service Faculty Members as contemplated by Procedures for the Implementation of the *Faculty Code* B2; and (2) to designate all Tenured Faculty Members to act as a School-wide Personnel Committee with respect to the promotion and tenure (including initial appointment with tenure) of Full-service Faculty Members as contemplated by *Faculty Code* IVD1. The elected Appointments Committee described in Article 2 of these Rules and the elected Tenure and Promotion Committee described in Article 3 of these Rules will function as described in those Articles for the purpose of presenting the appropriate reports and/or recommendations to the committee of the whole and/or the School-wide Personnel Committee.

1.4 University Faculty Organizations. Subject to the Board of Trustees, the faculty of the University and the official representative bodies of the faculty formulate educational policy and educational objectives of the University.

1.5 Nature, Time, and Place of Faculty Meetings.

1.5.1 Business Meetings. A business meeting of the faculty normally shall be held once each month beginning in September and continuing through May, and in other months at the call of the Dean. When practicable, a business meeting shall commence in the afternoon of some Friday of the month, such meeting not to conflict with University Senate meetings whenever possible. No regular classes taught by Full-service Faculty Members shall be scheduled between 2:00 p.m. and 6:00 p.m. on Fridays. A schedule of business meeting dates and times for the fall and spring semesters shall be prepared by the Dean or the Senior Associate Dean for Academic Affairs and circulated to the faculty prior to the beginning of the fall semester.

1.5.2 Attendance at Business Meetings. It is the professional responsibility of faculty members to attend business meetings. The chair of every standing or special committee of the faculty shall attend or ensure representation of the relevant committee at every business meeting.

- 1.5.3 Special Meetings. A special meeting of the faculty shall be called by the Dean, or in the Dean's absence by the Senior Associate Dean for Academic Affairs; at the written request of ten or more Full-service Faculty Members; or by the president or the provost and vice president for academic affairs. The call or agenda for a special meeting shall be prepared and circulated by the Dean or the Senior Associate Dean for Academic Affairs, giving as much notice of the time, place, and subject matter of the meeting as circumstances permit, but a special meeting may be called on any notice and for any time or place when reasonably required by the circumstances.
- 1.5.4 Informational Meetings. An informational meeting is one provided for announcements, proposals, and discussions to facilitate the exchange of ideas, facts, comments, and inquiries concerning the Law School. No quorum is required. No business shall be done. Advance notice of the agenda is not required. The Dean shall have the power to limit the topics set for discussion and to limit debate, but rulings of the chair limiting debate may be appealed and shall be controlled by a simple majority of those present and voting in informational meetings. An informational meeting may be called by the Dean, and shall be called by the Dean, or in the Dean's absence by the Senior Associate Dean for Academic Affairs, at the written request of six or more Full-service Faculty Members.
- 1.5.5 Executive Sessions. Faculty meetings or portions of faculty meetings may be convened of a sub-group of faculty members to address business particularly within the interests of such members, such as faculty appointments, the granting of tenure to non-tenured faculty, or the promotion or change of status of faculty members. Such meetings or portions of meetings shall be known as Executive Sessions. The persons entitled to attend Executive Sessions shall be as described elsewhere in the *Faculty Rules*.
- 1.5.6 Minutes. The Dean shall appoint some suitable person to take minutes of every meeting of the Law School faculty except informational meetings. Minutes shall not be kept of informational meetings. Minutes taken in Executive Sessions shall not be published and must only be read or acted upon in Executive Sessions. Minutes shall not be kept of debate relative to appointment, reappointment, tenure, promotion, or change of status of specific persons, but the results of votes and the text of motions shall be kept. Minutes of regular faculty meetings normally shall be circulated to the faculty before or with the agenda for the next meeting.
- 1.5.7 Attendance and Debate by Those Not Full-service Faculty Members.
- 1.5.7.1 Most Expansive Privileges Rule. The provisions set out in this rule 1.5.7 refer to the privileges of attendance and debate accruing by reason of holding a position and are not intended to limit

privileges of attendance and debate accruing by reason of holding an additional position.

- 1.5.7.2 Limited Service Members. Limited Service Members, as defined in rule 1.2.11, may attend Law School faculty meetings on a non-voting basis and shall have the privilege of debate. They may not attend Executive Sessions of the Full-service Faculty Members or a subgroup thereof unless invited by a majority of those present and voting at such Executive Sessions.
- 1.5.7.3 Law School Administrators. Law School Administrators are all Associate Deans, Assistant Deans, and similar academic administrators subject to appointment under rule 2.16, as well as those holding the positions (or equivalent) of the Law School's financial director, director of development, director of student administrative services, director of communications, and director of faculty support. Law School Administrators may attend Law School faculty meetings and Executive Sessions of the Full-service Faculty Members on a non-voting basis and shall have the privilege of debate. They may not attend Executive Sessions convened of a sub-group of Full-service Faculty Members unless invited by a majority of those present and voting at such Executive Sessions. Law School Administrators shall be entitled to receive notice of, and the agenda for, those meetings they are entitled to attend.
- 1.5.7.4 Students. The president and vice-president of the Student Bar Association, as well as one additional student appointed by the Student Bar Association, may attend Law School faculty meetings on a non-voting basis, but shall have no privilege of debate. Student members of faculty committees, including the Appointments Committee and the Tenure and Promotion Committee, may attend Law School faculty meetings at the invitation of the faculty Chair(s) of the relevant committee for the limited purpose of delivering reports and answering the questions of the faculty. Students may not attend Executive Sessions unless invited by a majority of those present and voting at such Executive Sessions.
- 1.5.7.5 Guests. Subject to a majority vote of the Full-service Faculty Members, the Dean may invite guests to attend any Law School faculty meeting to address the faculty and answer questions or to observe the meeting as silent spectators, as the motion of invitation shall specify. Without vote, the Dean may invite any University administrator to attend any Law School faculty meeting to address

the faculty and answer questions. No guest described in this rule 1.5.7.5 may attend Executive Sessions unless invited by a majority of those present and voting at such Executive Sessions.

1.5.8 Place of Meetings. The Dean shall hold every meeting in a place suitable to the comfort and convenience of the persons attending.

## 1.6 Rules of Order and Agenda for Faculty Meetings.

1.6.1 Rules of Order. The faculty shall govern itself in its various meetings according to the most recent version of *Robert's Rules of Order*, except as provided otherwise in the special rules of order of these Rules, by rule or motion adopted by the Law School faculty, or when in conflict with superior University authority.

1.6.2 *Faculty Rules*. The Senior Associate Dean for Academic Affairs shall maintain a consolidated set of all rules, motions, and resolutions adopted that affect the administration of the Law School, the conduct of business by committees or in faculty meetings, or similar procedures and processes so that such actions shall be conveniently available in collected form. Such rules, motions, and resolutions shall be known as the *Faculty Rules*.

1.6.3 Compilation of the *Faculty Rules*. The Senior Associate Dean for Academic Affairs shall maintain a current, amended set of the *Faculty Rules* and shall distribute or make electronically available a copy thereof to each Full-service Faculty Member.

1.6.4 Day Defined. When the *Faculty Rules* specify a number of days for notice, "day" shall mean a working day at the Law School, and the day of the noticed event shall count as the last day of the prescribed period in computing when notice must be distributed. A working day means a day on which the staff is in attendance and does not require the holding of classes for instruction.

1.6.5 Content and Preparation of the Agenda. The Dean, Senior Associate Dean for Academic Affairs, or Associate Dean for Academic Affairs shall collect and arrange the items for each business meeting and shall prepare and circulate the agenda. At the timely request in writing of five Full-service Faculty Members, the Dean, the Senior Associate Dean for Academic Affairs, or Associate Dean for Academic Affairs shall include an item on the agenda of the next business meeting.

1.6.6 Consent Calendar. The Dean, Senior Associate Dean for Academic Affairs or Associate Dean for Academic Affairs may separately designate a consent calendar on the agenda. Items on the consent calendar will not be subject to discussion or separate faculty vote and are deemed approved

by unanimous consent. The following matters may be placed on the consent calendar: 1) approval of the minutes of the prior faculty meeting; 2) approval of the appointments or reappointments of Adjunct Professors of Law or Professorial Lecturers in Law; 3) approval of J.D., LL.M. and S.J.D. graduates; 4) approval of the designation of a course as satisfying the Skills Requirement; 5) approval of proposals by the Curriculum Committee to modify the number of units of credit awarded for courses, change the method of evaluation for a course, change the name of a course, or approve the content of a generic seminar to be taught by Part-time Faculty. Reappointment of tenure-track faculty members at the time of pre-tenure review under Rule 3.2 must be placed on the consent calendar. Upon written (including e-mail) request of three members of the Full-service Faculty, made at least 24 hours prior to the faculty meeting to the preparer of the agenda, an item on the consent calendar shall be considered as an item on the regular calendar and thus subject to discussion and vote. The faculty shall be notified by e-mail or other means as soon as possible that an item has been removed from the consent calendar and is subject to discussion.

1.6.7 Notice and Circulation of the Agenda. In order to give notice sufficient to consider an item at a business meeting, the item shall be included in the agenda that is put in faculty mailboxes or disseminated electronically not later than five days before the meeting. The agenda for a special meeting shall be provided in such form and with as much notice as the circumstances permit, and the business of a special meeting shall be germane to the matters giving rise to the meeting.

1.6.8 Statement of Voting Rights. A statement as to who is entitled to vote on any personnel matters should be made a part of each faculty meeting's agenda, to be distributed to all Full-service Faculty.

1.6.9 Order of Business. The business of the faculty at a meeting shall be taken up in the order on the agenda, unless it is altered by the presiding Dean, subject to a majority vote of the faculty.

1.6.10 Non-Business Items. Announcements, motions of appreciation or condolence, and similar non-business items need not be included in the agenda in order to be given appropriate attention at a meeting.

1.6.11 Parliamentarian. The Dean or Senior Associate Dean for Academic Affairs may appoint a parliamentarian to serve at every meeting of the Law School faculty except informational meetings for an academic year. If the appointed individual is unable to attend a particular meeting, such individual shall notify the Dean or Senior Associate Dean for Academic Affairs who may appoint a parliamentarian for that meeting.

## 1.7 Debate and Voting at Faculty Meetings.

- 1.7.1 Debate. All discussion and all amendments, including motions to substitute, shall be germane to the matter being debated.
- 1.7.2 Quorum. A quorum of the Full-service Faculty, or Tenured Faculty, or faculty convened by rank or status shall be the next whole number greater than one-half of the members of these respective bodies. Members on leave of absence will not be included in the determination of any quorum requirement unless such member is in actual attendance. For purposes of this rule, the Senate Parliamentarian (if a law school professor), and the Law School's Members of the University Faculty Senate shall be considered on a leave of absence when faculty meetings conflict with Faculty Senate meetings.
- 1.7.3 Voting by Voice. Votes at meetings shall ordinarily be taken by voice, with the Dean calling for the Ayes and the Noes and declaring the result as carried or lost.
- 1.7.4 Voting by Show of Hands. At the option of the Dean, or upon the call of any faculty member for a division after a voice vote, the vote shall be taken by a show of hands. The Dean shall announce the Ayes and the Noes, and he may in his discretion vote orally then to break or create a tie vote.
- 1.7.5 Voting by Secret Ballot. A secret ballot shall be taken whenever requested by a faculty member. The Dean may cast a ballot with the others and shall announce whether the motion carried, or, when requested by any member of the Full-service Faculty, the Ayes and the Noes; or the Dean may exercise the authority of the presiding officer by a non-secret vote to break or create a tie vote.
- 1.7.6 Majority Vote of the Faculty Defined. A majority vote of the Full-service Faculty, Tenured Faculty, or faculty convened by rank shall be the next whole number greater than one-half of such members voting.
- 1.7.7 Nominations and Elections. The election of all officers and representatives of the faculty, including elected committees, shall be an item for the agenda of a business meeting. Elections to University bodies shall conform to the requirements of the University. Except as otherwise provided for in these Rules, nominations may be made by any member eligible to vote in the election. Election shall be by a majority of eligible voters voting, a quorum of such class being present. The Dean may appoint a nominating committee to present a name or names, and other nominations may be made from the floor.

1.7.8 Suspension of the Rules. By a two-thirds vote of the faculty members voting, the faculty may suspend any of the rules, including the rules of order, for the consideration of any item of business, except as provided in section 1.7.9.

1.7.9 Rules Not Subject to Suspension. The following rules shall not be suspended, but may be altered by amendment as provided in section 1.9.1: section 1.7.2, Quorum, 1.7.5, Voting by Secret Ballot; 1.7.7, Nominations and Elections, section 1.7.8, Suspension of the Rules; and section 1.9.1, Amendment.

## 1.8 Voting Eligibility.<sup>1</sup>

1.8.1 Voting Matters. For purposes of these Rules, a “matter of school governance” is any matter other than a personnel matter. A “personnel matter” is an appointment, reappointment, tenure, promotion, change of status, or authorization or reauthorization of an LRWP position. As used below in this Rule 1.8, the term “appointment” includes a reappointment and “authorization” includes a reauthorization.

1.8.2 General Rules. In all cases, the voting rights specified below are subject to the following additional rules:

1.8.2.1 Grants of Tenure. Only a Tenured Faculty Member may vote on the grant of tenure to either a newly appointed or existing faculty member.

1.8.2.2 Grants of Full Professor Status. Only a full professor may vote to grant full professor status to either a newly appointed or existing faculty member.

1.8.2.3 Matters Affecting Own Contract or Status. No faculty member may vote on personnel matters affecting such faculty member’s individual contract or status or the contract or status of an immediate family member, member of the same household, or person with whom the faculty member has a personal relationship.

1.8.3 Exclusion. This Rule 1.8 does not apply to Dean searches or to expressions of faculty support for decanal continuation. Voting rights for those matters are specified in Article 4 of these *Faculty Rules*.

1.8.4 Traditional Faculty. Traditional Faculty may vote on all matters.

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<sup>1</sup> This rule was adopted with the proviso that it would have force only until such time as the faculty revisited the issue of voting rights.

1.8.5 Clinical Track I Faculty and Clinical Non-tenure-track Faculty. Clinical Track I Faculty and Clinical Non-tenure-track Faculty may vote on:

- Matters of school governance,
- Appointment of new Clinical Track II faculty,
- Appointment and promotion of LRWP Faculty, the Director of Legal Research and Writing, the Director of the Law Library (if other than tenured or tenure-track), Limited Service Members, and Associate and Assistant Deans and similar academic officers,
- The change of a faculty member's status to Clinical Track I, from Specialized to Regular, or from Regular to Specialized, and
- Authorization of an LRWP position.

Clinical Track I Faculty and Clinical Non-tenure-track Faculty may not vote on:

- Appointment, tenure, or promotion of Traditional Faculty,
- Tenure or promotion of Clinical Track II Faculty (for either newly appointed or existing members of the faculty), or
- The change of a faculty member's status to Traditional or to Clinical Track II.

1.8.6 Clinical Track II Faculty. Clinical Track II Faculty may vote on:

- Matters of school governance,
- Appointments,
- Tenure of Clinical Track II Faculty,
- Promotion of Clinical Track II Faculty, LRWP Faculty, the Director of Legal Research and Writing, the Director of the Law Library (if other than tenured or tenure-track), Limited Service Members, and Associate and Assistant Deans and similar academic officers,
- The change of a faculty member's status to Clinical Track I or Clinical Track II, from Specialized to Regular, or from Regular to Specialized, and
- Authorization of an LRWP position.

Clinical Track II Faculty may not vote on:

- Tenure or promotion of Traditional Faculty (for either newly appointed or existing members of the faculty), or
- The change of a faculty member's status to Traditional.

1.8.7 The Director of Legal Research and Writing. The Director of Legal Research and Writing may vote on:

- Matters of school governance,
- Appointment of new Clinical Track II Faculty, and

- Appointment and promotion of LRWP Faculty, the Director of Legal Research and Writing, the Director of the Law Library (if other than tenured or tenure-track), Limited Service Members, and Associate and Assistant Deans and similar academic officers.

The Director of Legal Research and Writing may not vote on:

- Appointment or promotion of Traditional Faculty,
- Promotion of Clinical Track II Faculty,
- The change of a faculty member's status to Traditional, Clinical Track I, or Clinical Track II, from Specialized to Regular, or from Regular to Specialized, or
- Authorization of an LRWP position.

1.8.8 LRWP faculty. LRWP faculty may vote on:

- Matters of school governance other than rules and regulations relating to personnel matters and the election of personnel committees.

LRWP faculty may not vote on:

- Personnel matters, rules and regulations relating to personnel matters, or the election of personnel committees.

1.8.9 Director of the Law Library. If the Director of the Law Library is tenured or on a tenure track, then the Director is a Traditional Faculty Member and has the same voting rights as other Traditional Faculty Members. If the Director of the Law Library is a Specialized Faculty Member or is a Regular Faculty Member but is not tenured or on a tenure track, then the Director shall have the same voting rights as the Director of Legal Research and Writing.

1.8.10 Limited Service Members. Limited Service Members shall have no voting rights.

1.9 Amendment and Severability of Rules.

1.9.1 Amendment. An amendment of the *Faculty Rules* shall be treated as an item of business and may be adopted at any business meeting by a majority vote of the Full-service Faculty, a quorum of such class being present, provided that five days' notice has been given. Whenever practicable, the proponent of an amendment to the *Faculty Rules* shall circulate a text of the proposed amendment to the faculty no later than five days before the meeting at which the amendment will be considered.

1.9.2 Severability. In case any provision of the *Faculty Rules* shall be inconsistent with the *Faculty Code*, the *Faculty Rules* provision, to the

extent of the conflict, shall be severed and declared void, and the remainder of the *Faculty Rules* shall continue in force.

## 2. Appointments.

### 2.1 The Appointments Committee.

2.1.1 Composition. There shall be eight members of the Appointments Committee, serving in two classes of four members serving staggered terms. During the month of February of each academic year, the Dean shall nominate a sufficient number of members to replace the members whose terms are then expiring and shall designate which of the eight members shall be the chair. The Committee must have at least one Full-service Faculty Member who primarily teaches clinical courses or performs clinic administration. All members other than a Clinical Non-tenure-track Faculty Member must be Tenured Faculty Members as of the fall semester immediately following the appointment. The nominees in total must be approved by the faculty at a meeting held during that month. The Student Bar Association shall be responsible for selecting students to serve as student representatives on the Committee.

2.1.2 Term of Membership. Each member shall serve a two-year term. The Dean may fill any unexpected vacancies on the Committee with the approval of the faculty. A nominee for a vacancy shall complete the term of the person replaced. The chair shall serve a one-year term.

2.1.3 Period of Tenure. Each term of office shall begin upon completion of the work of the previous Appointments Committee, but no later than May 1 of the year in which the new member is elected. The term of office shall end upon completion of the Committee's work, but no later than May 1 of the year in which the member's term is to expire.

2.1.4 Duties. The Appointments Committee, as then composed, shall have the following duties:

2.1.4.1 Meeting soon after the completion of the work of the previously constituted Appointments Committee and throughout the term to consider appointments matters for the academic year beginning in the fall.

2.1.4.2 Identifying, screening, scheduling, and recommending candidates for appointment and gathering information necessary for these tasks.

2.1.4.3 Working with the Dean in accordance with Rule 2.16.4 relating to the appointment of Associate Deans, Assistant Deans, and Similar Academic Administrative Officers.

2.1.4.4 Reviewing the appointment letters for Full-service, non-tenure-track faculty members for compliance with the weighting and other requirements of Article 3 of these *Faculty Rules*. Specifically, the Appointments Committee shall consult the following Rules as relevant: Rule 3.4.6, Rule 3.5.7, Rule 3.6.5, Rule 3.7.6, and Rule 3.8.4.

2.1.4.5 Reviewing the substantive criteria and procedures for appointment and recommending to the faculty any changes that may be appropriate.

2.1.4.6 Periodically reviewing the manner in which information is obtained about the qualifications of appointment candidates and recommending to the faculty any changes that may be appropriate.

2.2 General Standards Governing Appointments. Appointments, compensation, and all other terms and conditions of employment shall be made solely on the basis of merit and without regard to race, color, religion, sex, sexual orientation, national origin, age, disability, veteran status, gender identity or expression, or any other category protected by applicable law.

2.3 Criteria for Appointment of Traditional Tenured and Tenure-Track Faculty. A candidate for appointment as a Traditional tenured or tenure-track faculty member must meet the standards for tenure under Rule 3.4 or show substantial promise of achieving tenure under Rule 3.4. Criteria governing appointment shall include educational and professional achievement, teaching ability, demonstrated capability for quality research and scholarship, and potential for working effectively with colleagues in furthering the purposes and activities of the Law School or the University. Candidates for tenured and chaired positions will be expected to have demonstrated significant and consistent achievement in these areas. Criteria specific to a particular vacancy such as a candidate's area of specialization and the curricular and program needs of the Law School shall also be considered in selecting candidates to be recommended for appointment.

2.4 Criteria for Appointment of Tenure-Track and Tenured Faculty on Clinical Track II. All Full-service Faculty who are hired primarily to teach clinical courses shall be hired as tenure-track or tenured faculty members on Clinical Track II or as Traditional tenure-track or tenured faculty members who meet the criteria under Rule 2.3. A candidate for appointment on Clinical Track II must meet the standards for tenure under Rule 3.4 or show substantial promise of achieving tenure under Rule 3.4.

2.5 Criteria for Appointment of Director of the Law Library. A candidate for appointment as Director of the Law Library may be considered for appointment as a Tenured Faculty Member, tenure-track faculty member, Regular Faculty Member not on a tenure track, or Specialized Faculty Member. Criteria to be taken into account in the context of an appointment to any status shall include: educational and professional achievement; promise of effectiveness (1) in operating a service-oriented library, (2) as a manager of the library staff, (3) in keeping within the library budget, and (4) in prudent management of budgeted funds; and an estimate of continuing future competence. Criteria governing the status of the appointment as Regular or Specialized are set out in Rule 2.14. A candidate for appointment to a tenured or tenure-track position must meet the standards for tenure under Rule 3.4, or show substantial promise of achieving tenure under Rule 3.4.

2.6 Criteria for Appointment of Director of Legal Research and Writing. A candidate for appointment as Director of Legal Research and Writing may be considered for appointment as a Regular Faculty Member who is not tenured or on a tenure track, or as a Specialized Faculty Member. Criteria to be taken into account in the context of an appointment to either status include evidence of substantial experience with and expertise in legal research and writing as well as evidence of the ability to meet the criteria generally applicable under Rule 3.7 for reappointment as a Director of Legal Research and Writing. Criteria governing the status of the appointment as Regular or Specialized are set out in Rule 2.14.

## 2.7 Criteria for Creation of LRWP Positions and Appointment of LRWP Faculty

2.7.1 Presumptions. Tenured and tenure-track faculty should be used to meet teaching needs whenever possible. LRWP positions should only be created in special circumstances to meet special programmatic and administrative needs. LRWP faculty should only be appointed to LRWP positions that have been approved by the faculty in accordance with the *Faculty Rules*.

2.7.2 Criteria for Creation of LRWP Positions. The criteria for creation of an LRWP position include the determinations that the position entails primarily administrative responsibilities; the position entails a degree of administrative responsibility that is inconsistent with the normal expectations of tenure-track faculty; the position entails teaching in a specialized graduate law program in a field in which the market does not offer a sufficient number of candidates who would meet our normal standards for appointment to a tenure-track position; or the position entails a volume of thesis supervision that greatly exceeds the normal expectations of tenure-track faculty.

2.7.3 Criteria for Appointment of LRWP Faculty. The criteria for the appointment to any approved LRWP position depend upon the particular need(s) for which the position was created and may include: effectiveness as a program administrator; effectiveness as a graduate student supervisor; effectiveness as a teacher; and effectiveness and knowledge as a specialist in the field of law

relevant to the position. A candidate for appointment as an LRWP faculty member may be considered for appointment either as a Regular Faculty Member who is not on a tenure track, or as a Specialized Faculty Member. Criteria governing the status of the appointment as Regular or Specialized are set out in Rule 2.14.

2.8 Criteria for Appointment of Part-time Faculty. The criteria for the appointment of a Part-time Faculty Member at the rank of Adjunct Professor of Law or Professorial Lecturer in Law include the need for the appointee, in the judgment of the Dean, Senior Associate Dean for Academic Affairs, or Associate Dean for Academic Affairs, and the appointee's legal and teaching experience.

2.9 Faculty Positions with Different Possible Categorizations. These Rules allow options for the categorization of faculty appointed to certain faculty positions. Some faculty positions allow for appointment of a faculty member as a tenured faculty member, a tenure-track faculty member, a Regular Faculty Member not on a tenure track, or a Specialized Faculty Member. Some faculty positions allow for appointment of a faculty member as a Regular Faculty Member not on a tenure track or as a Specialized Faculty Member. With regard to either type of appointment:

2.9.1. Initial Determination of Categorization. When a vacancy arises in such a position, the Appointments Committee may determine the categorization of the position before beginning its search and advertise and search only for candidates in the chosen category, or it may advertise and search for candidates in multiple categories and consider the characteristics and desires of the candidates as it conducts its search.

2.9.2 Criteria to Reflect Determination. When the Appointments Committee determines the categorization of the position prior to beginning its search, the criteria for the position shall be those appropriate to the chosen category as specified in the rules relevant to the given position. When the Appointments Committee has determined that a search shall encompass multiple categories, the Committee shall consider the characteristics and desires of the candidates and shall ensure that any given candidate meets the criteria for one of the possible categories for the position that the candidate would be willing to accept.

2.10 Procedures for Creation or Reauthorization of LRWP Position.

2.10.1 Consultation Regarding Creation of a New LRWP Position. The Dean shall consult with the Appointments Committee regarding the need for creating an LRWP position. After consulting with the Appointments Committee, the Dean may recommend to the faculty that it create such a position. The Appointments Committee shall report to the faculty regarding the need for creating such a position, but its approval is not required for the Dean's recommendation.

2.10.2 Faculty Approval. A two-thirds vote of those eligible to vote who are present and voting is required to approve the Dean's recommendation for creation of an LRWP position.

2.10.3 Reauthorization of LRWP Position. The procedures for creation of an LRWP position shall also be followed in order to reauthorize an LRWP position when such a position already exists, but the incumbent holding the position is unavailable for reappointment, declines to seek reappointment, or is denied reappointment. These procedures shall not govern reauthorization of an existing LRWP position when the incumbent seeks reappointment. Instead, Section 3.11.1 shall govern such reauthorization.

2.10.4 Exemption from Reauthorization Requirement. The faculty may, at the time that it approves the creation of an LRWP position, designate the position as one not requiring reauthorization pursuant to Rule 3.11.1 in the year in which the term of appointment of the holder of the position expires. This designation shall not exempt the position from reauthorization when the incumbent holding the position is unavailable for reappointment, declines to seek reappointment, or is denied reappointment.

## 2.11 Procedures for Appointment.

2.11.1 Compliance with University Requirements and Announcement of Vacancies. The chair of the Appointments Committee is responsible for ensuring that the search and appointments process conforms to overall University policies and procedures. As part of this responsibility, the chair will submit to the University an Affirmative Action Plan for Recruiting and shall make public announcement of vacancies, the text of which shall be approved by the Dean. Public announcement shall include, at a minimum, notice in at least one professional publication. The announcement should indicate that the University is an Equal Opportunity/Affirmative Action Employer. For tenure-track positions, the announcement should indicate the Law School's emphasis upon teaching and scholarly publication; for clinical positions, the announcement should also indicate the Law School's emphasis on effectiveness in supervising students in a clinical setting; for LRWP positions, the announcement should indicate the ways in which the position will meet the needs of the relevant program.

2.11.2 National Search. Except when time constraints do not permit, the Appointments Committee shall conduct a national search to identify candidates for appointment to any Full-service Faculty position.

2.11.3 Screening of Candidates. The Appointments Committee will be responsible for preliminary screening and rating of candidates for faculty appointments according to the Law School's general criteria and any special

requirements applicable to the particular vacancy. The Committee will identify those candidates with the strongest credentials in light of the appointment criteria. The Appointments Committee shall consult with the Associate Dean for Clinical Affairs in carrying out its preliminary screening of candidates who will primarily teach clinical courses. It shall also, when appropriate, consult with LRWP faculty regarding the appointment of LRWP faculty.

2.11.4 Campus Interviews. After consulting with the Dean, the Committee shall invite the most promising candidates to the Law School to be interviewed by faculty and student representatives and to make a presentation appropriate to the position for which they are being interviewed.

2.11.5 Number of Candidates. The number of candidates interviewed will depend on the nature of the vacancy or appointment and the status of the candidate pool. Ordinarily, at least two candidates shall be interviewed for an appointment, whether new or created by a vacancy.

2.11.6 Interview Schedule. The chair of the Committee shall be responsible for the candidate's interview schedule, which, to the extent practical, should be the same for all candidates for a particular vacancy. All members of the Full-service Faculty and Law School Administrators shall be invited to any presentation by the candidate and shall receive from the chair a copy of the candidate's resume and other relevant material.

2.11.7 Verification and Evaluation of Credentials. The Appointments Committee, under the direction of the chair, is responsible for verifying and evaluating the candidate's credentials. This will include a review of the candidate's publications and performance in teaching, if any, and conducting a reference check. Candidates who have received law degrees within the previous five years will be asked to furnish a copy of the transcript of their academic work. Transcripts may be requested from other candidates in the discretion of the Committee. Academic and professional references will be contacted to verify and evaluate the candidate's credentials. For clinical faculty positions, verification and evaluation of credentials will include ascertainment of good standing in all jurisdictions to which the candidate is admitted to practice, and eligibility to become a member of the D.C. bar, if necessary. Where appropriate, written references may be requested. The Committee may obtain any other information that it deems relevant to the appointment decision.

2.11.8 Vote by Committee. After the interviewing and reference review is completed, the Appointments Committee will meet to discuss and evaluate the candidates. Where practicable, the Committee will endeavor to recommend more than one candidate to the faculty for a vacancy. The faculty members of the Committee and the student representatives will vote separately. The name or names of those recommended by a majority of the faculty members on the Committee will be forwarded by the chair to the Full-service Faculty.

2.11.9 Preliminary Reports and Discussion at Faculty Meeting. At the general faculty meeting, the chair of the Appointments Committee will report the recommendation of the Committee. The recommendations and views of the student representatives will be presented and discussed. Those not eligible to remain for the Executive Session will be invited to express their views. Students and all those other than Full-service Faculty Members and Law School Administrators will then be excused and those remaining will meet in Executive Session. At that time, a quorum count shall be taken by the presiding officer.

2.11.10 Executive Session on Appointment. At the Executive Session, assuming satisfaction of the quorum requirement, the Committee chair will move the adoption of the Committee recommendation by the faculty eligible to vote. A report on the Committee's review of the credentials of the candidate or candidates for a vacancy will then be made by one of the Committee's members. Following discussion of the Committee's recommendations, a secret ballot will be taken. A two-thirds vote of those eligible to vote who are present and voting is required for recommendation for appointment. The voting faculty may, under Rule 2.11.12, rank other candidates thus approved whom they would be willing to recommend if the primary candidate withdraws or is withdrawn by the Dean.

2.11.11 Voting Rights of Faculty Members Who Are In a Relationship with Candidate. No faculty member who is in the same immediate family, same household, or who is involved in a personal relationship with a candidate shall vote on the candidate or other competing candidates or be present during discussion or debate regarding the candidate or other competing candidates. Faculty members to whom this rule applies are responsible for absenting themselves.

2.11.12 Appointments Ranking Votes. When appointments candidates are competing for a number of positions smaller than the number of candidates, the procedures specified in this rule shall be used. If a ranking vote is held, the faculty members entitled to vote in the ranking vote shall be the faculty members entitled to vote in the initial appointments vote, without regard to whether such faculty members are entitled to vote to make the appointment a tenured appointment or an appointment at the rank of full professor.

2.11.12.1 The faculty shall discuss each appointments candidate individually. Voting faculty shall vote Yes or No on each candidate individually by secret ballot in accordance with Rule 2.11.10. The vote totals shall not be announced until all the initial votes have taken place.

2.11.12.2 If exactly two candidates have been approved by 2/3 vote and a ranking vote is required, the voting faculty shall take a ranking vote on those two candidates by secret ballot following discussion.

2.11.12.3 If three or more candidates have been approved by 2/3 vote and a ranking vote is required:

2.11.12.3.1 The faculty shall discuss ranking the approved candidates.

2.11.12.3.2 The voting faculty shall vote on the ranking of the approved candidates by secret ballot. Each voting faculty member shall vote by listing all of the approved candidates in rank order.

2.11.12.3.3 The tellers shall examine the ballots and determine whether any one candidate beats all other candidates in pairwise comparisons. If so, that candidate shall be the winner.

2.11.12.3.4 If no candidate is the winner, the tellers shall eliminate the candidate with the fewest votes for first place and apply Rule 2.11.12.3.3 again, treating each ballot as a ranking of the remaining candidates.

2.11.12.3.5 If, after an approved candidate is ranked in accordance with Rule 2.11.12.3, exactly two approved candidates remain to be ranked, the tellers shall determine the ranking of the remaining approved candidates by comparing them against each other. If, after an approved candidate is ranked in accordance with Rule 2.11.12.3, more than two approved candidates remain to be ranked, the tellers shall determine the next-ranked candidate by applying the provisions of Rules 2.11.12.3.3 and 2.11.12.3.4 to the remaining candidates, replacing “first place” in Rule 2.11.12.3.4 with “the highest place among the remaining candidates.” A candidate eliminated under Rule 2.11.12.3.4 is reinstated for purposes of this rule. This procedure shall be followed until all the candidates are ranked.

2.11.12.3.6 If at any stage two or more candidates are tied and it is necessary to break the tie, a new ballot shall be taken as between the tied candidates.

2.11.12.3.7 An incomplete ballot that ranks fewer than all the approved candidates shall be deemed to rank any listed candidate above any unlisted candidate and to be an abstention as between any two unlisted candidates.

2.11.13 Executive Session on Appointment with Tenure. If the recommendation of the Committee is for appointment of a candidate with tenure and the eligible faculty has voted to recommend a candidate’s appointment, those not eligible to

vote on the Committee's recommendation of tenure will be excused and the eligible faculty will meet in Executive Session. The tenure recommendation will be discussed and a secret ballot will be taken. A two-thirds vote of those tenured faculty members present and voting is required for approval.

2.11.14 Executive Session on Appointment at Level of Full Professor. If the recommendation of the Committee is for appointment of a candidate at the rank of Professor of Law, Professor of Law (Clinical Track II), Professor of Legal Research and Writing or Professor of [Specialty] and the eligible faculty has voted to recommend a candidate's appointment, those not eligible to vote on the Committee's recommendation of rank will be excused and the eligible faculty will meet in Executive Session. The Committee's recommendation of rank will be discussed and a secret ballot will be taken. A majority vote of those eligible to vote who are present and voting is required for approval.

2.11.15 Appointment of Visiting Professors.

2.11.15.1 Visiting Professors or Associate Professors of Law or Clinical Law. After consultation with the Appointments Committee, the Dean may appoint full or part-time Visiting Professors of Law, Visiting Associate Professors of Law, Visiting Professors of Clinical Law, or Visiting Associate Professors of Clinical Law for a term of up to one year. After consultation with the Appointments Committee, the Dean may renew such a visiting appointment for no more than one additional year.

2.11.15.2 Visitors as the Director of Legal Research and Writing or to Fill LRWP Positions. The Dean may appoint a visitor as the Director of Legal Research and Writing or to an LRWP position only when (1) it is not feasible to follow the appointment procedures in these Rules and (2) the visitor is being appointed to fill an existing full-service Director of Legal Research and Writing or LRWP faculty position to accommodate the temporary leave or departure of a faculty member. The Dean shall consult with the Appointments Committee before making such a visiting appointment. After consultation with the Appointments Committee, the Dean may renew such a visiting appointment for no more than one additional year.

2.11.16 Recommendation and Appointment of Part-time Faculty Members.

2.11.16.1 Dean's Recommendation of Part-time Faculty Members. The Dean may recommend the appointment of a Part-time Faculty Member to meet the academic needs of the Law School in the Dean's judgment, except that no such faculty member may be appointed to teach more than two courses per academic year unless

the courses are primarily skills courses, such as trial advocacy, or the teaching load is otherwise approved by the faculty pursuant to Rule 2.11.16.2.

2.11.16.2 Appointment of Part-time Faculty Members. A majority vote of those eligible to vote who are present and voting is required to recommend the initial appointment of a Part-time Faculty Member for a term of one semester or one year, depending on the member's teaching assignment.

## 2.12 Rank and Title at Appointment.

2.12.1 Criteria for Rank. The criteria for determining the rank of an appointee to a Full-service Faculty position shall be the same as those used in recommending the appointment.

2.12.2 LRWP Faculty Title. The faculty shall determine the title for an LRWP position at the time it approves creation of the position.

## 2.13 Length of Initial Appointment.

2.13.1 Tenured and Tenure-track Appointments. Appointments that confer tenure shall have no set term. The initial term of appointment to a tenure-track position shall be four years, unless the faculty member agrees to a shorter term.

2.13.2 Director of the Law Library. The initial term of appointment, other than an appointment that confers tenure or is an appointment to a tenure-track position, of the Director of the Law Library shall be four years.

2.13.3 Director of Legal Research and Writing. The initial term of appointment of the Director of Legal Research and Writing shall be four years.

2.13.4 LRWP Faculty. The initial term of appointment of an LRWP faculty member shall be three years, unless the faculty member agrees to a shorter term.

2.13.5 Part-time Faculty. Subject to the requirements of the University's collective bargaining agreement, the initial term of appointment of a Part-time Faculty Member carrying the title of Adjunct or Professorial Lecturer in Law shall be one semester or year.

2.14 Appointment as either Regular or Specialized Faculty. The criteria for appointment as a Regular Faculty Member who is not on a tenure track are the promise of excellence as a teacher, promise of ability to engage in research or scholarship, and the promise of engagement in service activities described in Rules 3.3 and 3.4 as the criteria for reappointment to such a position. Candidates for Full-service Faculty positions not satisfying these criteria, not choosing to be considered for appointment to Regular

Faculty Positions, or being considered for appointments to positions advertised by the Appointments Committee as Specialized under Rule 2.9 shall hold appointments as Specialized Faculty. Accepting appointment as a Regular Faculty Member who is not on a tenure track represents a contractual undertaking with respect to teaching, research, and service as contemplated by Rule 1.2.4 and Section IB of the *Faculty Code*.

## 2.15 Courtesy Appointments.

2.15.1 Criteria for Courtesy Appointment. The criteria for the appointment of a Professor of Law (by courtesy) include that: 1) the candidate must be a faculty member in another school in the University; 2) the person's field of research must be relevant to the intellectual mission of the Law School; and 3) the candidate shows promise of contributing actively to the intellectual life of the Law School. The candidate need not hold a law degree.

### 2.15.2 Procedures for Appointment.

2.15.2.1 Recommendation. Two Law School tenured faculty members or full clinical professors must recommend to the Appointments Committee the granting of a courtesy appointment to a faculty member from another GW school. This recommendation shall take the form of a brief supporting statement from each faculty member explaining why a courtesy appointment is appropriate (the supporting statements).

2.15.2.2 Review. The Appointments Committee will review the supporting statements and the candidate's curriculum vita together with the criteria set out in Rule 2.15.1 in order to decide whether to recommend the appointment to the entire faculty. Prior to its recommendation to the faculty, the Appointments Committee shall consult with the candidate (and the chair of the candidate's department). If the Committee decides to recommend the appointment, the Committee shall forward the candidate's curriculum vita together with the supporting statements and any other relevant information to the faculty.

2.15.3 Voting. A majority vote of those eligible to vote who are present and voting is required for recommendation of a courtesy appointment.

2.15.4 Maximum Number of Appointments. No more than four Professors of Law (by courtesy) may be appointed during any given year.

2.15.5 Rank and Title of Appointment. Courtesy appointments carry the title of Assistant, Associate, or Professor of Law (by courtesy) (depending on their title in their home school and department, and changing automatically in accord with

promotions received in the home school and department). Within the Law School faculty, they shall hold Limited Service appointments pursuant to Rule 1.2.11.

#### 2.15.6 Term of Appointment.

2.15.6.1 Period of Years. The appointment shall be for a period of five years or, if appropriate, a shorter time period. The courtesy appointment is renewable pursuant to the procedures of Rule 2.15.2 if the person has made a significant contribution to the intellectual life of the Law School during the previous term.

2.15.6.2 Termination. The appointment will terminate at an earlier time if the appointee leaves the University or for other good cause.

#### 2.16 Procedures for Appointment of Associate Deans, Assistant Deans, and Similar Academic Administrators.

2.16.1 General Rule. The Dean shall appoint Associate Deans, Assistant Deans, and Similar Academic Administrative Officers in accordance with the terms and conditions set out in this Rule 2.16. Renewal or revision of an appointment (other than one relating to the primary duties of the position) shall not require compliance with Rules 2.16.4 and 2.16.5.

2.16.2 Definitions. For purposes of this rule, “Similar Academic Administrative Officer” shall include any person having the title or performing the function of Director, Associate Director or Assistant Director of any academic program. It shall not include the following:

2.16.2.1 The Director of the Law Library or any person responsible for administration of the law library;

2.16.2.2 The Director of the Legal Research and Writing Program;

2.16.2.3 Any person appointed as an LRWP Faculty Member;

2.16.2.4 Any member or members of the Tenured or tenure-track Faculty who direct or directs any center or institute chartered by the University or any initiative or program not receiving significant discretionary funding or administrative support from the law school. Annual funding of less than \$20,000 and administrative support not requiring at least the equivalent of a half-time employee shall be deemed not significant for this purpose.

2.16.3 Consequence of Appointment. Appointment pursuant to this rule shall not result in faculty membership but shall not preclude the appointee from possessing or applying for faculty membership under some other rule.

- 2.16.4 Vacancies. In the event of a vacancy in any office covered by this rule or creation of a new office covered by this rule, other than one to be filled by a current Full-service Faculty Member, the Dean shall request the Appointments Committee to assess the requirements of the relevant office and to select between the following two options:
- 2.16.4.1 Deference to the Dean. To defer to the Dean's selection of a recruitment process. This will ordinarily be the case if the primary responsibilities of the office are non-academic and relate to facilities management, student placement, student well-being, admissions, and/or student discipline.
- 2.16.4.2 Other Appropriate Process. To devise such other recruitment process as the Appointments Committee deems appropriate. The Committee should ensure that the process complies with all University and legal requirements relevant to the position.
- 2.16.5 Vote of the Faculty. In all cases, appointment of the preferred candidate(s) must be approved by a majority vote of those Full-service Faculty Members eligible to vote who are present and voting.
- 2.16.6 Interim Vacancies. For purposes of program continuity, the Dean may fill vacancies in existing offices covered by this rule on an interim basis without complying with 2.16.4. Compliance with 2.16.5 nonetheless is required if the vacancy occurs during a period in which regular classes are being held. Interim appointments, including any extensions, shall not exceed a period of one year.
- 2.16.7 Transition Rule. Searches commenced prior to January 1, 2018 need not comply with the requirements of this Rule 2.16 other than Rule 2.16.5.

### **3. Tenure, Promotion, Reappointment, and Change of Status.**

#### 3.1 The Tenure and Promotion Committee.

- 3.1.1 Composition. During the spring semester, the faculty shall elect six members to the Tenure and Promotion Committee from among the tenured members of the faculty of full professorial rank. At least one of the six members must primarily teach clinical courses or perform clinic administration. The Committee shall elect one or more of its own to serve as chair or co-chairs. The Student Bar Association shall be responsible for selecting students to serve as student representatives on the Committee. The Associate Dean for Faculty Development shall be an *ex officio* member of the Committee, non-voting unless also one of the Committee's six elected members.

- 3.1.2 Duties. The Tenure and Promotion Committee shall have the following duties:
- 3.1.2.1 Gathering and Reporting Information. Gathering and reporting information concerning candidates for tenure, promotion, reappointment, or change of status.
  - 3.1.2.2 Pre-tenure Reviews. Conducting pre-tenure reviews of tenure-track candidates as described in Rule 3.2.
  - 3.1.2.3 Review of Criteria and Procedures. Reviewing the substantive criteria and procedures for tenure, promotion, reappointment, and change of status and recommending to the faculty any changes that may be appropriate.
  - 3.1.2.4 Review of Methods. Periodically reviewing the manner in which information is obtained about the teaching performance or professional writings or service of tenure, promotion, reappointment, and change of status candidates and recommending to the faculty any changes that may be appropriate.
  - 3.1.2.5 Classroom and Other Visits.
    - 3.1.2.5.1 General Rule. Subject to 3.1.2.5.2, arranging each year for classroom or other visits by members of the Committee and other faculty members of all tenure-track faculty who are not tenured and, unless a faculty member has been reappointed at least two times, all Regular Faculty not on a tenure track who are below the rank of professor.
    - 3.1.2.5.2 First Year of Teaching. Subject to Rule 3.11.2, any classroom visits in a faculty member's first year of teaching at the Law School will be at the request of such faculty member, unless such faculty member is a lateral appointment within two years of tenure or reappointment at the Law School.
    - 3.1.2.5.3 Other Visits. Arranging for such classroom or other visits as are otherwise called for by these Rules.
  - 3.1.2.6 Decanal Review. Administering any decanal review process described in Article 4 of these Rules.

3.2 Pre-tenure Reviews.

3.2.1 Pre-tenure Reviews, Generally. The Tenure and Promotion Committee shall conduct a pre-tenure review of a tenure-track candidate during the candidate's third year (except for Clinical Track II Faculty candidates covered by Rule 3.2.2). Determinations on whether to conduct such reviews for untenured lateral hires shall be made in consultation with the Dean. The Committee shall review the candidate's writings, planned projects, teaching, and other relevant criteria relating to the standards for tenure, and shall prepare a report on the candidate's progress. The report will be circulated to the Tenured Faculty and the candidate, and placed on the consent calendar as a recommendation that the candidate's contract be renewed for a three-year term. A discussion of the candidate will be placed on the agenda for the same meeting as a discussion item. There will be a presumption in favor of renewing the candidate's contract. Following the faculty meeting at which the report is considered, the Associate Dean for Faculty Development will meet with the candidate to review the report, as well as any comments and suggestions made by the Tenured Faculty. In discussing the report with the candidate, the Associate Dean shall preserve confidentiality by not revealing the names of faculty members who made comments.

3.2.2 Timing of Pre-tenure Review for Clinical Track II Faculty. The Tenure and Promotion Committee shall conduct the pre-tenure review of a candidate for tenure on Clinical Track II during the candidate's third or fourth year, at the option of the candidate. The candidate's contract renewal shall be for a three-year term or a two-year term, in the event the candidate has chosen to undergo pre-tenure review in the fourth year. A Clinical Track II Faculty candidate's choice to undergo pre-tenure review during the fourth year will not affect the timing of that candidate's tenure determination, and the candidate can still be considered for tenure in the fifth or sixth year.

### 3.3 General Standards Governing Tenure, Promotion, Reappointment, and Changes of Status.

3.3.1 Non-Discrimination. Action with respect to reappointments, terminations, promotions, tenure, changes in status, compensation, and all other terms and conditions of employment shall be taken solely on the basis of merit, except that, to the extent expressly provided elsewhere in these Rules or in the *Faculty Code*, changes in the academic or fiscal needs of the University also may be considered. Action with respect to reappointments, terminations, promotions, tenure, changes in status, compensation, and all other terms and conditions of employment shall be taken without regard to race, color, religion, sex, sexual orientation, gender identity or expression, national origin, age, disability, veteran status, or any other category protected by applicable law.

3.3.2 Harmless Error. No failure to conform to faculty procedures for tenure, promotion, reappointment, or change of status set forth in the *Faculty*

*Rules* shall be grounds for any rehearing or reconsideration unless the tenure, promotion, or reappointment candidate can demonstrate that the failure materially affected the tenure, promotion, reappointment or change of status decision.

3.3.3 General Standards for Reappointment. Reappointment to a tenure-track position shall be granted upon a showing of reasonable progress toward achieving tenure. Reappointment to a non-tenure-track position shall be in accordance with the applicable criteria for the position described in these Rules, including, in the case of any Regular Faculty Member who is not on a tenure track, excellence as a teacher, engagement in research, and engagement in service, all in accordance with Rule 3.4.

3.3.4 General Standards for Promotion.

3.3.4.1 Tenured Faculty. Promotion shall be granted to Tenured Faculty Members who have achieved excellence in their fields through contributions to scholarship, teaching, and engagement in service, all in accordance with Rule 3.4, and who demonstrate the potential to continue to do so. It is reserved for those who have since receiving tenure established a record that demonstrates a sustained, high level of distinction in their field through scholarly contributions, excellence in teaching, and active engagement in service. In addition, it is expected that the candidate's record of scholarship, teaching, and service provides confidence that the candidate will continue in all these areas at a level of excellence in a pattern of sustained development and substantial growth in achievement and productivity. Time served in rank is not a sufficient basis for promotion.

3.3.4.2 Full-service Faculty Members Not on a Tenure Track. A non-tenure-track Full-service Faculty Member who has served on the faculty of any law school for at least four years may at any time seek promotion to the rank of professor. Promotion shall be granted to non-tenure-track Full-service Faculty Members who have satisfied the applicable criteria for the position described in these Rules, including, in the case of any Regular Faculty Member, excellence as a teacher, engagement in research, and active engagement in service, all in accordance with Rule 3.4. It is expected that the candidate's record provides confidence that the candidate will continue in a pattern of sustained development and substantial growth in achievement and productivity. Time served in rank is not a sufficient basis for promotion.

3.3.5 General Standards for Tenure. Tenure is reserved for members of the faculty who demonstrate excellence in scholarship, teaching, and engagement in

service, all in accordance with Rule 3.4, and who show promise of continued excellence. Excellence in teaching and engagement in service are prerequisites for tenure, but they are not in themselves sufficient grounds for tenure. Tenure is reserved for faculty members whose scholarly accomplishments are distinguished in their fields, and a candidate's record must compare favorably with that of candidates in similar stages of their careers at peer research universities.

3.3.6 General Standards for Changes in Status. Changes of status may be granted to candidates satisfying the requirements for an initial appointment to the rank and status sought. A faculty member who is not on a tenure track, other than the Director of the Law Library or a Clinical Non-tenure-track Faculty Member, may not seek a change in status to tenure-track, but may apply for appointment to fill a tenure-track position advertised in accordance with Rule 2.11.1.

### 3.4 Criteria for Assessing Satisfaction of Standards for Tenure, Promotion, or Reappointment.

#### 3.4.1 Excellence as a Teacher.

3.4.1.1 General. Excellence as a teacher is a criterion measured by such indicia as teaching materials used or produced, faculty visits of classes, oral presentations to the faculty, supervision of individual student papers, accessibility and other assistance to students, and assessments by students, including but not limited to student teaching evaluations.

3.4.1.2 Candidates Teaching Primarily in the Clinic. In the case of a candidate who teaches primarily in the clinic (including faculty members on Clinical Track II), the criteria for assessing teaching excellence shall also include the following.

3.4.1.2.1 Lawyering Skills. A candidate who teaches primarily clinical courses must demonstrate lawyering skills, which may include but are not limited to interviewing, counseling, negotiating, fact-finding, case planning, litigating, client representation, legal advocacy, policy development, legal drafting, or engaging in alternative dispute resolution. Ordinarily, the candidate should have established expertise in one or more areas of substantive law suitable for student representation of individual or institutional clients or issue advocacy. Such knowledge should extend to the procedures and institutions pertinent to legal practice.

3.4.1.2.2 Imparting Skills. A candidate who teaches primarily clinical courses must demonstrate ability to

impart the skills listed in section 3.4.1.2.1, to supervise students effectively, and to assist students in developing insights and learning from their experiences. The candidate should know when to intervene to provide case guidance, in order to balance the student's interest in acquiring experience with the ethical obligation to provide competent legal services. A candidate must employ appropriate teaching materials and demonstrate an understanding of the goals and methods of clinical teaching. These methods include individual supervision and feedback, small group discussions, simulation exercises, substantive classroom sessions and casework. In addition, the candidate must demonstrate an awareness of current developments in clinical teaching.

3.4.1.2.3 Professional Responsibility. A candidate who teaches primarily clinical courses must be able to relate matters of professional responsibility to the day-to-day aspects of clinical casework, to exercise sound professional judgment, and to act as a model for students.

### 3.4.2 Research and Scholarship.

3.4.2.1 Traditional Tenured and Tenure-track Faculty. There is no specific numerical requirement of scholarly work and the primary criterion is the quality of scholarship that has been produced by the candidate, as well as evidence of the candidate's likely continued scholarly contributions in the future. While no minimum bright line test can be specified, it is expected that at the time of the decision to recommend tenure a candidate will have demonstrated excellence in scholarship by producing a minimum of two major scholarly articles or books that significantly contribute to the field and that are of high quality, which is to be measured by originality of thought, thoroughness of research, critical analysis and clarity of expression. In general, book reviews, symposium contributions, casebooks, and short essays will not meet the definition of scholarly articles, though such writings can be included in a tenure file and may, in extraordinary circumstances, be treated as major scholarly articles. For the purposes of promotion, the same criteria apply, though a candidate may substitute a larger quantity of scholarly pieces that may not meet the definition of a major scholarly article as defined above, for consideration to promotion, though as in the case for tenure, it is the quality rather than the quantity of the work that is most relevant to the promotion decision.

3.4.2.2 Clinical Track II Tenured and Tenure-track Faculty. A candidate for tenure on Clinical Track II must demonstrate a productive and creative mind applied to the advancement of law, legal education, legal practice, the legal profession, legal institutions, social problems, or rules and principles. A candidate's work may include law review scholarship, including articles published in clinical law journals, or other significant scholarly writings. For purposes of promotion the same criteria apply, though, as in the case for non-clinical-track tenure, it is the quality rather than the quantity of the work that is most relevant to a promotion decision. While no minimum bright line test can be specified, it is expected that at the time of the decision to recommend tenure, the candidate will have demonstrated excellence in scholarship by producing a minimum of two pieces of scholarship that significantly contribute to the field and that are of high quality, which is to be measured by originality of thought, thoroughness of research, critical analysis, clarity of expression, and effectiveness or professional impact.

3.4.2.3 Clinical Track I Faculty. Clinical Track I is a closed category. All members of the faculty teaching primarily in the clinic on or before January 1, 2018 who are not on a Traditional tenure track or on Clinical Track II have been deemed by the faculty to have satisfied the scholarship requirements of Clinical Track I.

3.4.2.4 Regular Faculty Who are Not on a Tenure Track. A candidate for reappointment or promotion as a Regular Faculty Member who is not on a tenure track must demonstrate research or writing related to the advancement of law, legal education (including legal research and writing pedagogy), legal practice, the legal profession, legal institutions, social problems, or rules and principles. A candidate's research or writing may include, but is not limited to, law review scholarship, including articles published in journals in the faculty member's field of expertise, textbooks related to that field, articles or books on legal education (including legal research and writing pedagogy) or legal professionalism, or other significant scholarly writings. It is the quality rather than the quantity of the work that is most relevant to a promotion or reappointment decision.

3.4.3 Law School, University, Professional, and Public Service Activities. Law School, University, professional, and public service activities include counseling of students and student organizations, committee work, cooperation and effectiveness in working with colleagues and staff in furthering the purposes and activities of the Law School or the University,

and service to the legal profession and the community. Service to the legal profession and the community may include, among other things, participation in AALS activities, membership on professional committees, law reform activities, pro bono work, and participation in professional conferences and presentations.

- 3.4.4 Estimate of Continuing Future Competence. An estimate of the tenure, promotion, reappointment, or change of status candidate's continuing future competence and effectiveness in satisfying the requirements of these Rules during the balance of the candidate's teaching career shall be considered as a factor in evaluating the candidate's tenure, promotion, reappointment or change of status.
- 3.4.5 Academic Needs. Upon a specific showing that the academic needs of the University have changed with respect to a particular position, that factor may also be considered in determining whether tenure or reappointment shall be recommended.
- 3.4.6 Weighting of Criteria. In the case of reappointment of a Full-service Faculty Member who is not on a tenure track, the satisfaction of the applicable standards shall be assessed in accordance with the weights assigned in the candidate's appointment letter, which, in turn, will comply with, and (pursuant to Rule 2.1.4.3) be approved by the Appointments Committee in accordance with, these Rules. In the case of a Regular Faculty Member, no standard shall be assigned a weight of "zero."

### 3.5 Status, Criteria and Weighting of Criteria for Tenure, Promotion, or Reappointment of the Director of the Law Library.

3.5.1 Status. The Director of the Law Library may hold a Traditional tenured or tenure-track position, a position as a Regular Faculty Member who is not on a tenure track, or a position as a Specialized Faculty Member. As a Tenured, tenure-track, or Regular member of the faculty, the director will be subject to the applicable standards stated in Rule 3.3, assessed by reference to the applicable criteria stated in Rule 3.4, as well as the additional criteria stated in this Rule 3.5. As a Specialized Faculty Member, the director will be subject only to the requirements of this Rule 3.5.

3.5.2 Effectiveness in Operating a Service-Oriented Library. One criterion is effectiveness in operating a service-oriented library in support of both teaching and professional scholarship at the Law School. The extent to which this criterion is met will be determined by the assessment of students, the faculty, and the Dean. Their views may be ascertained both by formal surveys and interviews, letters, and other specific communications. Some of the factors to be considered will be the level of assistance provided in finding relevant materials (including the use of

computerized research aids), development and maintenance of methods for keeping track of materials taken from the library, and the obtaining of requested materials through purchase or interlibrary borrowing.

3.5.3 Effectiveness as a Manager of the Library Staff. The extent to which this criterion is met will be determined by an assessment of the library staff, the Law School Library Committee, and the Dean. Some of the factors to be considered are whether the staff is well-integrated and efficient and whether individuals are terminated or positions are altered when that is required, and whether excellent people are employed when vacancies occur.

3.5.4 Effectiveness in Keeping within the Library Budget and in Prudent Management of Budgeted Funds. An important criterion for evaluation will be the Director's ability to manage the library with the funds available. In evaluating the Director's effectiveness with respect to other matters, the state of the budget will be a major consideration and the Director will not be downgraded for not providing services that cannot be afforded. However, the ability to develop sound priorities among alternative services, including the choice of materials to be purchased that will best serve the faculty and the students, will be considered.

3.5.5 Effectiveness as a Colleague. The Director of the Law Library, as a member of the law faculty, is expected to be a fully participating colleague in the activities and the decisions of the faculty.

3.5.6 Teaching and Scholarship. There is no specific requirement that the Director of the Law Library teach a course or courses or produce scholarship unless the Director holds an appointment as a Regular Faculty Member. However, if the Director makes contributions through teaching and/or publication (including the publication of bibliographies and other library related materials), that, as well as other service to the Law School, the University, and the community, will be given consideration.

3.5.7 Weighting of Criteria. If the Director is a Traditional Tenured or tenure-track Faculty Member, or a Regular Faculty Member not on a tenure track, the requirements specified in 3.5.2 through 3.5.5 shall bear the greatest weight.

3.6. Status, Criteria and Weighting of Criteria for Reappointment of a Clinical Non-tenure-track Faculty Member.

3.6.1 Status. A Clinical Non-tenure-track Faculty Member may be a Regular Faculty Member or a Specialized Faculty Member. As a Regular Faculty Member, a Clinical Non-tenure-track Faculty Member will be subject to the applicable standards stated in Rule 3.3, assessed by reference to the applicable criteria stated in Rule 3.4, as well as the additional criteria stated in this Rule 3.6.

As a Specialized Faculty Member, a Clinical Non-tenure-track Faculty Member will be subject only to the requirements of this Rule 3.6.

- 3.6.2 Excellence as a Teacher. A candidate for reappointment as a Clinical Non-tenure-track Faculty Member is expected to demonstrate excellence as a teacher, assessed in accordance with Rule 3.4.1.
  - 3.6.3 Quality and Quantity of Professional Writing. If the candidate is a Regular Faculty Member, satisfaction of the relevant research requirement of Section 3.4.2 is required. If the candidate is a Specialized Faculty Member, written work, such as teaching materials, briefs and other activities, grant applications, proposed legislation or regulations, or other significant legal writing shall be considered. Written work shall be judged by its thoroughness, the quality of legal analysis, and clarity of expression.
  - 3.6.4 Law School, University, Professional, and Public Service Activities. A candidate for reappointment as a Clinical Non-tenure-track Faculty Member is expected to engage in service as contemplated by Rule 3.4.3.
  - 3.6.5 Weighting of Criteria. In evaluating a candidate for reappointment as a Clinical Non-tenure-track Faculty Member, teaching effectiveness shall be given the greatest weight.
  - 3.6.6 Sunset Rule. In the event the status of the Clinical Non-tenure-track Faculty Member incumbent in the position on January 1, 2018 is changed to tenured or tenure-track, or upon the retirement of such Clinical Non-tenure-track Faculty Member, this Rule 3.6 shall be deemed revoked by the faculty and shall be removed from the Faculty Rules, along with all other references and Rules relating to the status. Rule 3.6 then shall be reserved to preserve the numbering of the other Rules.
- 3.7 Status, Criteria and Weighting of Criteria for Reappointment or Promotion of the Director of Legal Research and Writing.
- 3.7.1 Status. The Director of Legal Research and Writing may hold a position as a Regular Faculty Member who is not on a tenure track or a position as a Specialized Faculty Member. As a Regular Faculty Member, the Director will be subject to the applicable standards stated in Rule 3.3, assessed by reference to the applicable criteria stated in Rule 3.4, as well as the additional criteria stated in this Rule 3.7. As a Specialized Faculty Member, the Director will be subject only to the requirements of this Rule 3.7 and Rule 3.4.4.
  - 3.7.2 Effectiveness as an Administrator. The Director must demonstrate effectiveness as an administrator of the legal research and writing program.

3.7.3 Excellence as a Teacher. If applicable, the Director is expected to demonstrate excellence as a teacher, assessed in accordance with Rule 3.4.1.

3.7.4 Quality and Quantity of Professional Writing. If the Director is a Regular Faculty Member, satisfaction of the relevant research requirement of Section 3.4.2 is required. If the Director is a Specialized Faculty Member, written work, such as training and teaching materials, grant applications, or other significant writing shall be considered. Written work shall be judged by its thoroughness, the quality of legal analysis, and clarity of expression.

3.7.5 Law School, University, Professional, and Public Service Activities. The Director is expected to engage in service in accordance with Rule 3.4.3.

3.7.6 Weighting of Criteria and Balance. In evaluating the Director of Legal Research and Writing as a candidate for reappointment, promotion or change of status, effectiveness as a program administrator shall be given the greatest weight.

### 3.8 Status, Criteria and Weighting of Criteria for Reappointment or Promotion of LRWP Faculty.

3.8.1 Status. An LRWP Faculty Member may hold a position as a Regular Faculty Member who is not on a tenure track or a position as a Specialized Faculty Member. As a Regular Faculty Member, an LRWP Faculty Member will be subject to the applicable standards stated in Rule 3.3, assessed by reference to the applicable criteria stated in Rule 3.4, as well as the additional criteria stated in this Rule 3.8. As a Specialized Faculty Member, an LRWP Faculty Member will be subject only to the requirements of this Rule 3.8.

3.8.2 Quality and Quantity of Professional Writing. If the candidate is a Regular Faculty Member, satisfaction of the relevant research requirement of Rule 3.4.2 is required. In the case of a Specialized LRWP Faculty Member, no reappointment or promotion should be denied for failure to produce professional writings, although the faculty may consider the quality and quantity of the candidate's professional writings as additional support for reappointment or promotion.

3.8.3 Additional Criteria for Reappointment or Promotion of LRWP Faculty. The additional criteria relevant to the reappointment, promotion, or change of status of an LRWP Faculty Member depend on the particular need(s) for which the position was created. These criteria may include effectiveness as a program administrator; effectiveness as a graduate student supervisor; excellence as a teacher assessed in accordance with Rule 3.4.1; effectiveness and current knowledge as a specialist in the field of law or legal skill relevant to the position; and Law School, University,

and professional, and public service activities assessed in accordance with Rule 3.4.3.

3.8.4 Weighting of Criteria and Balance. In evaluating an LRWP Faculty Member as a candidate for reappointment or promotion, satisfaction of the needs of the position shall be given the greatest weight.

- 3.9 Criteria for Reappointment of Part-time Faculty. The criteria relevant to the reappointment of a Part-time Faculty Member are, subject to the requirements of any applicable collective bargaining agreement, continued need for the faculty member, in the judgment of the Dean, the Senior Associate Dean for Academic Affairs, or Associate Dean for Academic Affairs, legal and teaching experience, and effectiveness as a teacher.
- 3.10 Procedures for Tenure, Promotion, Reappointment, or Change of Status of Full-service Faculty.

3.10.1 Notice. Subject to Rule 3.3.2, the Tenure and Promotion Committee shall act *sua sponte* with respect to pre-tenure reviews. Any person seeking tenure, promotion, a reappointment not in the context of a pre-tenure review, or a change of status should so indicate by letter to the chair of the Tenure and Promotion Committee no later than October 1 of the academic year in which the decision is requested. In the case of a reappointment of a Full-service Faculty Member who is not on a tenure track, the decision should be sought in the penultimate year of the candidate's contract period. A promotion may be sought at any time. The Committee may also act *sua sponte* and shall act if a tenure decision is required with respect to a faculty member during the academic year, which must be made in the candidate's fifth year, except that the tenure decision for a candidate hired on Clinical Track II need not be made until the candidate's sixth year.

3.10.2 Committee to Gather Information. With the cooperation of the candidate, the Tenure and Promotion Committee will have responsibility for assembling the record of each candidate, and presenting a report to the faculty on each such candidate. If the matter relates to tenure or to promotion of a candidate on a tenure track, such report shall contain a formal recommendation for action by the faculty. The Tenure and Promotion Committee shall gather, if relevant, information about each candidate's teaching effectiveness, professional writings, and Law School, University, and other professional and public service activities. All candidates shall be invited by the Tenure and Promotion Committee to supply the Committee with information about the candidate's professional activities. All writings submitted by a candidate for tenure or promotion on a tenure track in fulfillment of tenure or promotion standards shall be submitted 1) to the Tenure and Promotion Committee (in the form in which the Committee will send them for outside review under Rule 3.10.4), and 2) to one or more journals or publishers through which

publication is sought no later than October 1 of the academic year in which decision is requested. Such writings must have been accepted for publication, published or the equivalent before they can be considered by the faculty in fulfillment of applicable standards.

3.10.3 Information by the Dean. Upon the request of any Full-service Faculty Member who is not a tenured full professor, the Dean, in consultation with the Tenure and Promotion Committee, shall inform the faculty member concerning the faculty member's probable success with regard to tenure, promotion, reappointment, or change of status. Such information will not constitute a commitment to recommend the faculty member for tenure, promotion, reappointment or change of status.

3.10.4 Outside and Internal Reviews. Before reporting to the faculty regarding the record of a candidate for tenure, promotion on a tenure track, or change of status to the Traditional tenure track or Clinical Track II, the Tenure and Promotion Committee shall endeavor to obtain at least three outside reviews of all significant publications by the candidate. However, if the candidate has more than two significant publications available for such review, the Committee may, with the consent of the candidate, exercise its discretion in limiting the number of publications sent for outside review to as few as two. The Committee may elect to obtain reviews by faculty of the Law School of significant publications by any tenure, promotion, reappointment, or change of status candidate. Reviews will be released to the candidate after the file has been completed and made available to the full faculty unless the reviewer requests confidentiality.

3.10.5 Teaching Evaluations. Before reporting to the faculty regarding the record of a candidate for tenure, promotion, reappointment to a position to which teaching is relevant, or change of status, the Tenure and Promotion Committee shall obtain and summarize all available peer and student teaching evaluations of the candidate generated since the last personnel matter relating to the candidate. If relevant, the Tenure and Promotion Committee shall arrange for a sufficient number of classroom or other visits to evaluate the candidate's teaching.

3.10.6 Other Information.

3.10.6.1 General. The Tenure and Promotion Committee shall also obtain any other information it deems relevant to a report on the candidate's professional record. Such information will be released to the candidate after the file has been completed and made available to the full faculty except as necessary to respect requests for confidentiality.

- 3.10.6.2 Information Required for Personnel Decisions Affecting the Director of the Law Library. The record of the candidate shall include (if relevant) faculty peer reviews of teaching, (if relevant) student evaluations of classes taught by the candidate, evaluations by the staff of the law library, evaluations by the law faculty, written work appropriate to the status of the candidate, and such other materials as the Tenure and Promotion Committee, in consultation with the candidate, may deem advisable. The Dean also shall furnish a written report to the Tenure and Promotion Committee concerning the candidate's effectiveness as the Director of the Law Library, which shall also be included in the file.
- 3.10.6.3 Information Required for Personnel Decisions Affecting the Director of Legal Research and Writing. The record of the candidate shall include faculty peer reviews of teaching, student evaluations of legal research and writing classes taught by the candidate and/or of the program as a whole, evaluations by the teachers supervised by the candidate, written work such as training and teaching materials, grant applications, and other significant writing, and such other materials as the Tenure and Promotion Committee, in consultation with the candidate, may deem advisable. The Dean also shall furnish a written report to the Tenure and Promotion Committee concerning the candidate's effectiveness as a program administrator, which shall also be included in the file.
- 3.10.6.4 Information Required for Personnel Decisions Affecting LRWP Faculty Members. The Tenure and Promotion Committee shall, when appropriate, consult with the LRWP Faculty regarding personnel decisions affecting LRWP Faculty and report on those consultations. In addition, after receiving notice of an LRWP Faculty Member's intent to seek a personnel action, the chair(s) of the Tenure and Promotion Committee shall meet with the candidate to identify appropriate materials that the member should collect. Such materials need not duplicate any materials that were available at the time of the original appointment. The candidate shall supply the identified materials to the Tenure and Promotion Committee at such time as the candidate and the Committee chair(s) shall agree, but no later than October 30 of the academic year in which the personnel action is sought. In addition, the Dean shall furnish an oral or written report to the Tenure and Promotion Committee concerning the candidate's effectiveness as a program administrator, when relevant. In addition, when relevant, the candidate shall supply information concerning the quantity and quality of graduate student supervision by the candidate, and the

Tenure and Promotion Committee shall collect such information, as well as information concerning the candidate's continued effectiveness in the candidate's programmatic field, from Law School tenured and tenure-track faculty in the field, if appropriate. Whenever necessary to complete preparation of a report on a candidate, the Committee may also seek the opinion of faculty and other professionals in the field outside the Law School concerning the candidate's continued effectiveness in the candidate's programmatic field.

- 3.10.7 Faculty Meetings at which Reappointment, Change of Status, Tenure, or Promotion Matters are to be Considered.
  - 3.10.7.1 Scheduling of Tenure Cases. Any tenure matter(s) shall be the first item(s) on the faculty meeting's agenda. When possible, tenure matters shall be the subject of a meeting at which no other business is to be considered.
  - 3.10.7.2 Other Rules Relating to Faculty Meetings at which Reappointment, Change of Status, Tenure, or Promotion Matters are to be Considered.
    - 3.10.7.2.1 Reports and Comments before Executive Session(s). At the faculty meeting at which the question of the candidate's tenure, promotion, reappointment, or change of status will be considered, student members of the Tenure and Promotion Committee shall present to the faculty a report on the record of the candidate. The report of the students will be discussed. Those not eligible to remain for the Executive Session(s) will be invited to express their views.
    - 3.10.7.2.2 Excuse of Persons not Eligible to Remain. In the case of a reappointment, students and all those other than Full-service Faculty Members and Law School Administrators will then be excused and those remaining will meet in Executive Session. In the case of a tenure, promotion, or change of status, those not eligible to vote will then be excused and the members of the faculty eligible to vote will meet in Executive Session.
    - 3.10.7.2.3 Conduct of Executive Session Regarding Reappointment, Change of Status, Tenure, or Promotion Matters. At the start of the Executive Session, a quorum count shall be taken by the presiding officer. The Tenure and Promotion Committee will then present a report on the record of the

candidate. Following discussion of the Committee's report by those present, a secret ballot will be taken.

- 3.10.7.2.3.1 Changes of Status Votes. A two-thirds vote of those eligible to vote who are present and voting is required for approval of any action granting a change of status.
- 3.10.7.2.3.2 Tenure Votes. For a tenure vote to be successful, the favorable vote must be a) a majority of those eligible to vote who are present and voting; and b) either 1) a majority of all Full-service Faculty Members who are eligible to vote, or 2) at least two-thirds of those eligible to vote who are present and voting. In calculating the number of Full-service Faculty Members who are eligible to vote for purposes of the preceding sentence, faculty members who are on leave, and, if the Law School faculty meeting conflicts with a University Faculty Senate meeting, faculty Senators and the Senate Parliamentarian (if a law school professor) shall be counted only if they are actually present at the Law School faculty meeting. Notwithstanding the foregoing, for faculty members hired prior to September 1, 2018, a tenure vote is successful if the favorable vote is a majority of those eligible to vote who are present and voting.
- 3.10.7.3.3 Votes on Other Personnel Matters. A majority vote of those eligible to vote who are present and voting is required for any other action. If a candidate requests reappointment and promotion, or a change of status and promotion, at the same time, the non-promotion matter shall be taken up first, including the Executive Session on the non-promotion matter, and, if the action is favorable, the matter of promotion shall be taken up after that in an Executive Session of those eligible to vote.
- 3.10.7.3.4 Conflicts of Interest. No faculty member who is in the same immediate family, same household, or who is involved in a personal relationship with a candidate shall vote on the candidate or be present during discussion or debate regarding the candidate. Faculty members to whom this rule applies are

responsible for absenting themselves and shall not be counted among those eligible to vote.

3.10.8 Transitional Rule for Changes in Status. Any member of the faculty as of January 1, 2018 who occupies a position classified as Specialized and who wishes to seek a change of status to Regular may do so at any time after the effective date of this Rule 3.10.8. The October 1 deadline stated in Rule 3.10.1 shall not apply. The sole criterion to be addressed is promise to satisfy the standard of Rule 3.3.3 relating to research, assessed by reference to the criteria of Rule 3.4.2.4. Acceptance of a change in status pursuant to this Rule 3.10.8 shall represent a contractual undertaking to engage in research as contemplated by Rule 1.2.4 and Section IB of the *Faculty Code*.

3.10.9 Consequence of Rejection of Change of Status. A faculty member whose application for a change of status is rejected by a vote of those persons eligible to vote shall thereafter retain the faculty member's current status.

3.10.10 Consequence of Prior Approval of Change of Status. A faculty member whose application for a change of status to Clinical Tenure on Track I has been approved by the faculty before January 1, 2018 shall be deemed approved for the status of Regular Faculty Member and shall be deemed as re-approved by the faculty for the status of Clinical Tenure on Track I as of the first faculty meeting of each academic year.

3.10.11 Consequence of Failure to Act. The faculty shall act on the question of reappointment of a Full-service Faculty Member who is not on a tenure track no later than June 30 of the reappointment candidate's penultimate year, and if the faculty fails to act on the question by June 30, its failure shall have the effect of extending the candidate's contract by one additional year.

### 3.11 Additional Procedures for Reappointment of LRWP Faculty.

3.11.1 Dean's Recommendation and Vote. If an LRWP Faculty Member is not eligible for reappointment under Rule 3.12 and holds a position not designated by the faculty under Rule 2.10.4 at the time of appointment as requiring no reauthorization, the Dean may, in the year preceding the year in which the term of appointment of that member expires, recommend to the faculty that it approve the reauthorization of the LRWP position held by that faculty member. A majority vote of those faculty members eligible to vote who are present and voting is required to approve the Dean's recommendation for reauthorization of an LRWP position.

3.11.2 Class Visits. Any LRWP Faculty Member who is assigned teaching responsibilities shall be subject to one class visit for each course taught in the first year of the member's initial appointment, and (unless the member is eligible for

automatic renewal under Rule 3.12) two class visits in the member's penultimate year. The Tenure and Promotion Committee, or the Dean, however, may arrange additional class visits at any time for any LRWP Faculty Member in response to student evaluations, other student communications, or any other circumstances that in the Committee's or the Dean's judgment warrant a visit.

### 3.12 Alternative Procedures for Certain Reappointments.

3.12.1 Automatic Renewal. The term of appointment of any Full-service, non-tenure-track faculty member eligible under Rule 3.12.5 will be automatically renewed unless, (1) no later than September 15 of the academic year that is the penultimate year of the candidate's appointment ("Renewal Year"), the Law School gives written notice approved in accordance with section 3.12.2 of an intention not to renew automatically, or (2) the person subject to reappointment declines reappointment by written notice given to the Tenure and Promotion Committee no later than October 1 of the Renewal Year. The intention of the Law School not to renew automatically may be based only on the existence of significant doubts with respect to the performance of the individual.

3.12.2 Notice. The notice of the Law School's intention not to renew automatically contemplated by Rule 3.12.1 shall be given only if approved by at least five members of a seven-person committee consisting of the six elected members of the Tenure and Promotion Committee and the Dean of the Law School. This committee shall be convened only upon call by three or more of its members for the purpose. The action of the committee in approving a notice of the Law School's intention not to renew automatically will in no way constitute a recommendation on the merits of faculty renewal.

3.12.3 Intention to Seek Renewal. In the event notice is given pursuant to Rules 3.12.1 and 3.12.2, the person subject to reappointment may, no later than October 1 of the Renewal Year, notify the Tenure and Promotion Committee of an intention to seek faculty renewal of such person's contract. The matter will thereupon be governed by Rule 3.10; provided, however, that the faculty members voting on the reappointment under Rule 3.10.7 shall be instructed that, in assessing compliance with the relevant reappointment criteria, they should vote against the reappointment only for grounds which they believe in good faith would constitute cause for termination of an ongoing employment contract for the same type of position.

3.12.4 Termination Rights. The terms of this Rule 3.12 will be without prejudice to other rights the Law School or the University may have to terminate the employment of an individual based on lack of funding, termination of a position or program, or for cause. At the request of the University, persons whose reappointments are governed by this Rule 3.12 periodically may be required to execute waivers of "*de facto*" tenure. Failure to do so will be treated as a waiver of rights under this Rule 3.12.

### 3.12.5 Faculty Members Eligible for Reappointment under Rule 3.12.

3.12.5.1 Faculty Members Eligible for Automatic Renewal under Predecessor Provisions. Members of the faculty as of January 1, 2018 who, under Rule 3.10.2 or Rule 3.12.3 of the *Faculty Rules* dated April 5, 2016, were eligible for automatic renewal shall be faculty members eligible for renewal under this Rule 3.12. These faculty members are hereby stated to be:

3.12.5.1.1 A Clinical Non-tenure-track Faculty Member.

3.12.5.1.2 An LRWP Faculty Member hired at the rank of full professor after serving at another institution with tenure.

3.12.5.1.3 A Full-service Faculty Member not on a tenure track, other than one holding the title of director, associate director, professor or associate professor of legal research and writing, who previously has undergone at least one reappointment subsequent to promotion to full professor.

3.12.5.2 Others Eligible for Reappointment under Rule 3.12.

3.12.5.2.1 A candidate who has undergone reappointment in the same status at least three times, whether under Rule 3.10 or any rule of any earlier version of the *Faculty Rules*, or who has undergone at least one such reappointment in the same status subsequent to promotion to full professor, and who is seeking reappointment to the same status, shall be a person eligible for reappointment under this Rule 3.12.

3.12.5.2.2 A candidate who has undergone reappointment at least three times, whether under Rule 3.10 or any rule of any earlier version of the *Faculty Rules*, or who has undergone at least one such reappointment subsequent to promotion to full professor, and who has changed status from a Specialized Faculty Member to a Regular Faculty Member, shall be a person eligible for reappointment under this Rule 3.12 provided that at least one of the earlier reappointments was subsequent to the change of status.

3.12.5.2.3 A candidate who has received reappointment at least three times, whether under Rule 3.10 or any rules of any earlier version of the *Faculty Rules*, or who has undergone at least one such reappointment subsequent to promotion to full professor, and who has changed status from a Regular Faculty Member to a Specialized Faculty Member, shall be a person eligible for reappointment under this Rule 3.12.

### 3.13 Procedures for Reappointment of Part-time Faculty.

3.13.1 Term. At the expiration of an initial term of either one semester or one year, and every third year thereafter, the Senior Associate Dean for Academic Affairs or the Associate Dean for Academic Affairs shall report to the faculty concerning the teaching evaluations of each Part-time Faculty Member who is a candidate for reappointment.

3.13.2 Voting. A majority vote of those faculty members who are eligible to vote and who are present and voting is required to authorize the Senior Associate Dean for Academic Affairs or the Associate Dean for Academic Affairs to reappoint a Part-time Faculty member for additional terms of either one semester or one year as needed from time to time during a period of three years.

### 3.14 Length of Reappointment.

3.14.1 Tenure-track Faculty. The reappointment of tenure-track faculty shall be for the terms contemplated in Rule 3.2.

3.14.2 Clinical Non-tenure-track Faculty. An individual who is not on Clinical Tenure Track I or Clinical Tenure Track II and who holds the rank of Professor of Clinical Law and who has, in the judgment of the faculty, met the standards for reappointment, shall be reappointed for additional six-year terms.

3.14.3 Director of the Law Library. A Director of the Law Library who does not hold a tenure-track position and who has, in the judgment of the faculty, met the standards for reappointment, shall be reappointed for additional five-year terms.

3.14.4 Director of Legal Research and Writing. A Director of Legal Research and Writing who has, in the judgment of the faculty, met the standards for reappointment, shall be reappointed for additional five-year terms.

3.14.5 LRWP Faculty. An LRWP Faculty Member who has, in the judgement of the faculty, met the standards for reappointment, shall be reappointed to a three-year term, unless the faculty member agrees to a shorter term.

3.14.4 Part-time Faculty. During the three-year period in which the faculty has voted to authorize the reappointment of a Part-time Faculty Member, the faculty member may be reappointed from time to time for periods of one semester or one year, subject to any applicable collective bargaining agreement, and subject to continued academic need for and acceptable teaching performance by the faculty member, as determined by the Senior Associate Dean for Academic Affairs or the Associate Dean for Academic Affairs.

### 3.15 Effect of Promotion or Change of Status.

3.15.1 Promotion. A decision to promote a candidate who is not on a tenure track shall have the effect of reappointing the candidate to a new term.

#### 3.15.2 Change of Status.

3.15.2.1 A decision to approve a candidate's change of status from an untenured appointment on Clinical Track II to an untenured appointment on the Traditional tenure track shall have no effect on the candidate's term of appointment.

3.15.2.2 A decision to approve a candidate's change of status from Specialized to Regular or from Regular to Specialized shall have the effect of reappointing the candidate to a new term.

## 4. Decanal Search and Review

### 4.1 Dean Search Procedures.

4.1.1 Dean Search Committee Selection and Composition. Upon notification from the University Administration that a Dean Search should begin, the faculty shall, as soon as feasible, elect seven Full-service Faculty Members to be the Law School faculty members of the Dean Search Committee.

4.1.1.1 Faculty Eligible to Vote on Election of Members of the Dean Search Committee. All Full-service Faculty Members, as defined in Rule 1.2.3, shall be eligible to vote on election of members of the Dean Search Committee. Limited Service Members of the Faculty as defined in Rule 1.2.11, including full-

service Associate and Assistant Deans currently holding the rank of Professorial Lecturer, shall not be eligible to vote.

- 4.1.1.2 Faculty Eligible to Serve on the Dean Search Committee. Any Full-service Faculty Member may serve on the Dean Search Committee, provided, however, that the incumbent Dean or Interim Dean shall be ineligible to serve. If a member of the Dean Search Committee decides such member wishes to be considered as a decanal candidate, such member shall notify the Committee chair and resign from the Committee.
- 4.1.1.3 Nominations and Balloting. Nominations for members of the Dean Search Committee may be made from the floor by any faculty member eligible to vote on election of members as provided in Rule 4.1.1.1 above at a regular or special faculty meeting for which election of a Dean Search Committee has been duly placed on the Agenda. Nominations need not be seconded. Eligible faculty may make more than one nomination. Persons nominated may decline nomination. Balloting shall be by secret ballot or comparable electronic procedure. All ballots must contain a number of names equal to the number of seats on the Committee; any ballots which contain either fewer or more than the requisite number shall be invalid and shall not be counted. The number of nominees equal to the size of the Committee who have received the most votes shall be deemed elected. If necessary, in the event of a tie vote for the last positions on the Committee, additional ballots shall be taken.
- 4.1.1.4 Election of Chair and Vice Chair of the Dean Search Committee. The senior law faculty member of the Committee in years of service at the Law School shall serve as chair *pro tem* for purposes of convening an initial meeting of the law faculty members of the Committee. At the initial meeting, the law faculty members of the Committee shall elect from among themselves, by whatever method they choose, a chair and a vice chair, who must each be tenured and hold the rank of Full Professor.
- 4.1.1.5 Additional Members of the Dean Search Committee. After the law faculty members of the Committee are elected, additional persons shall be invited or selected to serve on the Committee, as follows:
  - 4.1.1.5.1 Provost. The law faculty members of the Committee shall invite the Provost to serve on the Committee or to appoint a representative to serve on the Committee.

- 4.1.1.5.2 Trustees. The law faculty members of the Committee shall invite the chair of the University's Board of Trustees to appoint trustees to serve on the Committee.
- 4.1.1.5.3 Student(s). The voting members of the Committee shall, in consultation with the Student Bar Association, select one or two current law students to serve on the Committee.
- 4.1.1.5.4 Alumni. The voting members of the Committee shall, in consultation with appropriate alumni organizations, select one or two Law School alumni to serve on the Committee.
- 4.1.1.5.5 Other Constituencies. The voting members of the Committee may, at their discretion, select additional members of other Law School constituencies to serve on the Committee. Additional members may include, but are not limited to, non-tenured or Limited Service Faculty Members (including Assistant or Associate Deans).
- 4.1.1.6 Voting Rights of Committee Members. The law faculty members of the Committee and members of the Committee who are University Trustees appointed under Rule 4.1.1.5.2 shall be voting members of the Committee. All other Committee members shall be non-voting members.
- 4.1.1.7 Requested Number of Candidates. After the Dean Search Committee is formed, the Committee will invite the Provost to advise the Committee regarding the minimum number of candidates that the President desires to receive from the Committee.

## 4.2 Dean Search Committee Process.

- 4.2.1 Executive Sessions. The voting members of the Committee, if they choose, may meet in executive session to deliberate and vote on (i) criteria for selecting a new Dean, (ii) the selection of candidates for preliminary and final interviews, (iii) the selection of nominees to be presented to the faculty, and (iv) other matters as they deem appropriate. The law faculty members of the Committee, if they choose, may meet in executive session to deliberate on the same matters.
- 4.2.2 Search Criteria. The Dean Search Committee shall establish criteria for the Dean Search. The criteria shall include a position description. Before becoming final, the criteria must receive the approval of the Law School faculty at a faculty meeting. All Full-service Faculty shall be eligible to vote on the criteria. The criteria shall also be approved by the Provost.

- 4.2.3 Advisory Committees. The Dean Search Committee may request various interested Law School and University constituencies, such as alumni groups, the Student Bar Association, and Law School staff to form advisory Committees. If deemed advisable by the Dean Search Committee, any such Committees may interview candidates who come to campus and offer their views about the candidates and perform such other functions as are given to them by the Dean Search Committee.
  - 4.2.4 Additional Assistance. In its discretion, the Dean Search Committee may secure the assistance of consultants, or other supporting personnel to assist in its search. Funding for such assistance is subject to the approval of the Office of the Dean or the Provost.
  - 4.2.5 Periodic Reports. The Dean Search Committee shall report to the full faculty and to the Provost and President of the University periodically about the progress of the search.
  - 4.2.6 Final Report to the Faculty. The Dean Search Committee shall report to the full faculty a slate of candidates for the faculty's consideration. The faculty will consider the candidates as provided in Rule 4.3 and shall provide its views on the candidates to the Committee.
  - 4.2.7 Report to the President. After receiving the results of the votes held at the faculty meeting held pursuant to 4.3, the Committee shall select the individuals to be recommended to the President and Provost for appointment as Dean. In making its selection, the Committee shall select only from among those individuals who became "approved candidates" under Rule 4.3.9.5. The Committee shall have discretion to send forward more than the requested number of candidates if more than the requested number have been approved by the faculty.
- 4.3 Consideration of Recommended Candidates by Full Faculty.
- 4.3.1 Meeting to Consider Candidates. Upon receipt of the report of the Dean Search Committee as provided in rule 4.2.6 above, a special faculty meeting shall be scheduled to discuss the slate of candidates. There shall be no other business on the Agenda at this meeting.
  - 4.3.2 Eligible Voters. All Full-service Faculty are eligible to vote on Dean candidates.
  - 4.3.3 Candidates and Related Parties. Neither a member of the voting faculty who is under consideration by the faculty as a candidate for the position of Dean nor any faculty member who is in the same immediate family, same household, or who is involved in a personal relationship with a candidate shall attend a faculty meeting during the reports on the candidates, during the general discussion and debate, or

during any vote to be taken under this Rule 4.3. Faculty members to whom this rule applies are responsible for absenting themselves.

- 4.3.4 Presiding Officer and Parliamentarian. The presiding officer for the meeting shall be the incumbent Dean or Interim Dean, unless that person is a Dean candidate or is unavailable to preside, in which case the presiding officer shall be the Senior Associate Dean for Academic Affairs, unless that person is a Dean candidate or is unavailable to preside, in which case the incumbent Dean or Interim Dean shall, with the consent of the faculty received at a faculty meeting held prior to the meeting described in this Rule 4.3, appoint a Full-service Faculty Member to serve as the presiding officer. The presiding officer, if otherwise eligible to vote, shall be eligible to vote on all matters notwithstanding status as presiding officer. A member of the Full-service Faculty of the Law School designated by the presiding officer shall serve as Parliamentarian of the meeting and advise the presiding officer concerning any matters of procedure that may arise.
- 4.3.5 Method of Voting. All votes in connection with decanal candidates shall be by secret ballots or comparable electronic procedure. On all votes, the chair and vice chair of the Faculty Dean Search Committee shall serve as tellers, distributing, collecting, and tabulating the ballots, or reviewing the electronic results, as appropriate. Only persons present and eligible to vote shall cast ballots; there will be no proxy voting.
- 4.3.6 Reports on Candidates By Non-Voting Interested Constituencies. The first order of business at the faculty meeting devoted to consideration of Dean candidates shall be the presentation of reports and comments on the candidates by representatives of interested constituencies. All discussion conducted shall be deemed confidential.
- 4.3.7 Executive Session and Report of the Dean Search Committee. At the close of the reports and comments provided for in Rule 4.3.6, the Full-service faculty and Law School Administrators shall then go into executive session. The Dean Search Committee shall then deliver a full report about each candidate. The Committee will respond to questions at the conclusion of the report on each candidate. All discussion conducted shall be deemed confidential.
- 4.3.8 Discussion. At the close of the discussion provided for in Rule 4.3.7, the voting faculty will then have an opportunity to discuss the merits of the various candidates. All discussion conducted shall be deemed confidential. Unless the voting faculty elects to go into an executive session of only voting faculty, all persons present in the executive session provided for in Rule 4.3.7 may remain and participate in the subsequent discussion. All candidates will be discussed as a group and, during the discussion, comments as to any candidate, or as to the comparative merits of the candidates, will be appropriate. The faculty may adopt,

by simple majority, a rule specifying the time at which discussion shall be concluded, in order to ensure ample time for balloting.

#### 4.3.9 Initial Balloting.

4.3.9.1 Approval. At the close of discussion a ballot shall be distributed to voting faculty members listing the name of each candidate under consideration. Each voting member of the faculty shall vote “yes” or “no” for each candidate listed on the ballot.

4.3.9.2 Appointment to the Faculty. At the conclusion of such balloting but before the ballots are counted, another ballot shall be distributed to all faculty members who are eligible to vote on appointments of Traditional Faculty. The ballot shall list the name of each candidate under consideration, except 1) those candidates who are already members of the Law School faculty; and 2) those candidates who have indicated to the Dean Search Committee that they do not require appointment. The ballot shall pose the question, “Do you approve a faculty appointment for each candidate listed, conditioned on the candidate’s becoming the Dean of the Law School?” Each eligible voting member of the faculty shall vote “yes” or “no” on this question for each candidate listed on the ballot.

4.3.9.3 Tenure. At the conclusion of such balloting but before the ballots are counted, another ballot shall be distributed to all faculty members who are eligible to vote on tenure of Traditional Faculty. The ballot shall list the name of each candidate under consideration, except 1) those candidates who are already members of the Law School faculty; and 2) those candidates who have indicated to the Dean Search Committee that they do not require a tenured appointment. The ballot shall pose the question, “Do you approve a tenured faculty appointment for each candidate listed, conditioned on the candidate’s becoming the Dean of the Law School?” Each eligible voting member of the faculty shall vote “yes” or “no” on this question for each candidate listed on the ballot.

4.3.9.4 Promotion. At the conclusion of such balloting but before the ballots are counted, another ballot shall be distributed to all faculty members who are eligible to vote on promotion of Traditional Faculty. The ballot shall list the name of each candidate under consideration, except 1) those candidates who are already members of the Law School faculty with the rank of full professor; and 2)

those candidates who have indicated to the Dean Search Committee that they do not require appointment at the rank of full professor. The ballot shall pose the question, "Do you approve a faculty appointment at the rank of full professor for each candidate listed, conditioned on the candidate's becoming the Dean of the Law School?" Each eligible voting member of the faculty shall vote "yes" or "no" on this question for each candidate listed on the ballot.

4.3.9.5 Votes Required. To be an "approved candidate," a candidate must receive a "yes" vote on 2/3 of all ballots cast under each of Rules 4.3.9.1, 4.3.9.2, and 4.3.9.3, and a "yes" vote on a majority of all ballots cast under Rule 4.3.9.4, except that a candidate need not receive such a vote for a ballot on which the candidate is not listed pursuant to the exceptions provided in Rules 4.3.9.2, 4.3.9.3, or 4.3.9.4. Candidates receiving the required votes shall be deemed "approved candidates." The vote totals received by the various candidates shall not be disclosed by the tellers to the faculty or the public, and instead shall be kept in strict confidence.

4.3.10 Approval of Requested Number of Candidates or More. If as a result of the initial balloting the faculty approves exactly the number of candidates that the President has requested or more than the requested number be submitted, then their names will be announced to the faculty in alphabetical order and communicated to the Dean Search Committee for action under Rule 4.2.7. There will be no further business to be conducted concerning the decanal candidates, and a motion to adjourn will be in order.

4.3.11 Approval of Fewer Than Requested Number of Candidates. If the faculty approves fewer than the requested number of candidates during the initial balloting, the names of the approved candidates shall be announced to the faculty in alphabetical order. The presiding officer will then inquire if the faculty wishes to engage in further discussion or debate. At the conclusion of such debate, or if there is no debate, the balloting procedures of Rule 4.3.9 shall be followed a second time with respect to all candidates who were not approved the first time.

4.3.11.1 Second Ballot Approval of Requested Number. If additional candidates are approved as provided in Rule 4.3.9 as a result of this balloting so as to bring the number of approved candidates to exactly the requested number or more, then the faculty will follow the procedure in Rule 4.3.10 above.

4.3.11.2 Second Ballot Approval of Fewer than Requested Number. If no additional candidates are approved as a result of this balloting, or if the number of additional candidates approved is insufficient to bring the total number of approved candidates up to

the requested number, the meeting will be declared in recess and the chair of the Dean Search Committee will communicate the situation to the President and Provost of the University and then report back to the Dean Search Committee and the faculty with a recommendation about how to proceed.

- 4.4 Amendments to these Rules. The faculty eligible to vote on election of members of the Dean Search Committee, as defined in Rule 4.1.1.1, may amend any of these rules relating to the Dean search by simple majority vote at a regular or special meeting of the faculty at least one week in advance of the faculty meeting at which the amended rule would be applied.