

Memorandum of
STANDARDS FOR TENURE AND PROMOTION

3. Standards

3.1 As to Tenure

1. Incorporation by Reference

The standards of the Law Center with respect to tenure incorporate by reference the applicable standards contained in the Faculty Handbook. The elaboration of the standards in this memorandum is intended to amplify the University standards and particularize those standards as applied to the circumstances of the Law Center.

2. Evidence of teaching ability

1. Importance of attribute

Education of students is the primary mission of the Law Center. Consequently, it is essential that tenured members of the faculty demonstrate a capacity and a commitment to explain, to inspire, and to challenge the minds of our students, and to develop legal skills. The ability to be an effective teacher is of particular significance at Georgetown because of the heavy teaching obligations imposed on all members of the faculty. Georgetown is likely to remain a law school with a high ratio of students to faculty, which will impose demands on faculty to teach a large number of hours and to confront a vast number of students. As a general matter, candidates for tenure must demonstrate their ability to be effective teachers before large numbers of students.

(2) The components of teaching ability

Different people are outstanding teachers for different reasons and it is probably not possible to define each of the essential components of teaching ability. The following major factors will be considered as evidence of teaching ability:

- (i) ability to communicate;
- (ii) preparation for class;
- (iii) breadth of knowledge relevant to the field;
- (iv) thoughtful organization of individual class sessions and overall course content;
- (v) ability to stimulate and inspire students;
- (vi) ability to direct a classroom meeting;
- (vii) ability to devise methods of determining a student's progress and achievement, appropriate to the courses taught;
- (viii) effectiveness and direction of research, clinical programs, or similar individual or small group programs;
- (ix) accessibility to students and demonstrated interest and involvement in their welfare;
- (x) articulation of pedagogical objectives and a plan for their achievement;
- (xi) the integration into the overall pedagogical plan of the various components appropriate to the form of education, in the classroom and in the clinic;
- (xii) interrelationship of models and theories with the development of legal skills and professional responsibility;
- (xiii) awareness and understanding of contemporary trends in legal education and familiarity with the appropriate pedagogical literature;
- (xiv) concern for development, refinement and application of teaching methodology;

(xv) where applicable, training of graduate students successfully to perform their own teaching and supervisory responsibilities.

The standards require solid achievement in each of these areas and reason to believe such performance will continue at a level of performance at least equivalent to that ordinarily attained by full-time members of the Law Center faculty.

(3) Measurement of teaching ability

Teaching ability will be measured by both student appraisal and the appraisal of colleagues. A principal medium for measurement of student appraisal will be the report of the Student Advisory Committee to the Rank and Tenure Committee and faculty. That report will describe and analyze the evidence that the students have considered and set forth the factors that they have weighed in making assessment of the quality of the candidate's teaching ability. The principal criterion to be determined by the students will be the candidate's teaching ability. In addition to that report, the faculty will consider the student critiques and the individual comments by students that have been expressed on the critiques, and any other evidence of student opinion it deems pertinent.

The evaluation by colleagues as to teaching ability is of great importance. Colleagues have the experience to judge a candidate by comparison with a wide range of teachers and, moreover, they are judging persons in a calling in which they are expert. Further, some members are able to judge the depth of a particular teacher's knowledge with greater competence than students. Evaluations by faculty members familiar with the field and any distinctive pedagogic techniques used by the candidate are particularly valuable.

The judgment of teaching ability by faculty or students is admittedly susceptible to the error of mistaking platform performance with teaching ability. The two are not to be confused, although they often come together.

(c) Evidence of Scholarship and Research

(1) Purpose of the Requirement

Inquiry into scholarship attainment is a vital aspect of the more general inquiry underlying the tenure process: Is the candidate a person of demonstrated intellectual and professional ability so that a long-term commitment is warranted? Several purposes are served by the requirement that faculty members demonstrate evidence of scholarship and research as one aspect of their overall qualifications for tenure and promotion.

First the quality of scholarship is a partial measure of the quality of the mind that produces it. Without evidence of an active, inquiring, insightful, intellectually curious mind, there can be no reliable prediction that the candidate will continue to function in all aspects as a challenging, up-to-date, stimulating and knowledgeable teacher. Second, evidence of scholarly ability and actual productivity are some indication that the candidate's capabilities and professional pride will cause the candidate to continually strive for personal growth, to search for new ideas and to avoid complacency with the level of his own personal and intellectual development. Evidence of scholarship is generally characteristic of a person who not only has achieved a high level of professional accomplishment, but who is likely to continue to develop professionally. Third, the tenure process itself helps to define the nature, identity and aspirations of Georgetown. A requirement of evidence of scholarship is a statement of what the institution believes to be the role of law professors and of law schools in society. Thus, the standards require no compromise on Georgetown's commitment that its faculty are expected to work

actively and creatively as scholars, in the broad sense, in the law, outside the classroom as well as in it.

(2) Form in Which Scholarship and Research May Be Manifested

In respects pertinent to the law faculty the University's Faculty Handbook says of scholarship:

While there is no concise definition of what may constitute evidence of scholarship, it is generally recognized that a scholar has a wide and critical command of the field of his study as well as broad cultural interests. The highest indication of scholarship is the ability to make original contributions in his field of knowledge. Scholarship is generally evidenced by scholarly publications of high quality. . . .

In applying this governing standard to legal research, it must be noted that legal scholars can find many outlets to pursue their areas of scholarship and research. Interests may range from the highly abstract to eminently practical contributions. Legal scholars may seek to accomplish a wide range of purposes in their scholarship.

Excellence in scholarship that contributes to the Georgetown community, the community of legal scholars and professionals, and the wider academic community can be manifested in many forms. However varied the purposes of scholarship and however diverse the forms in which scholarship is manifested, it must (a) ultimately appear in writing, (b) be the result of thoughtful labor, and (c) be disseminated to, and warrant recognition by, a significant audience, having in mind the special characteristics and purpose of the work. Illustrations of appropriate forms of scholarship include the following:

- (i) books
- (ii) articles
- (iii) book reviews of significant length and scope
- (iv) research project reports such as those under the auspices of an institute at Georgetown Law Center, the American Bar Foundation, or under contract research
- (v) publications of learned societies such as ALI, ABA, other bar associations of AALS, and various judicial and administrative conferences
- (vi) publications resulting from professional service, including the briefing of threshold cases as might result through participation with legal aid or similar welfare services, the conduct of arbitrations, court appointments, or acting as master
- (vii) publications stemming from governmental appointments such as presidential or other executive commissions, legislative committees, court appointments or administrative agency appointments
- (viii) significant scholarly contributions resulting from activities of clinical legal education programs, or as evidenced by briefs, memoranda, studies, statutes, regulations, teaching materials, or reports, if those formats are appropriate to advancing either the state of the law or the state of teaching methodology.

With respect to collaborative work, it is the professor's own contribution that is considered as evidence of scholarship.

Questions have arisen as to whether material that is designed for classroom use (but is otherwise unpublished) may qualify as evidence of scholarship. Written work is not disqualified from being "scholarship" simply because it is in the form of materials designed for classroom

use. Teaching materials that are substantial, original and comprehensive may meet the standards of scholarship described herein.

(3) Quality of Scholarship

Not all written works that appear in the above forms meet the standards of quality for legal scholarship. There exists no simplistic requirement that a candidate “publish or perish.” The scholarly piece, in whatever form or length, should reflect those qualities of mind that justify the imposition of the scholarship requirement. It should reflect the author’s attempt to impose his or her own views or sense of order on the existing materials and to explain and justify those personal positions. The scholarly piece should include a carefully conceived doctrinal or theoretical construction that is offered as a perspective on the existing material. Whether it be a new way of perceiving established dogma or a proposal for new directions, the scope of scholarly work should be sufficiently ambitious to justify the substantial commitment of time that the professor invested in the work. Scholarship, in sum, is informed, reflective, deeply analytical and in some substantial part a personal statement. By way of contrasting example, a book that simply collects the views of others, an article that merely reports the holdings of a number of judicial opinions or an analysis of a current legal issue that is content to summarize the contentions already made by others is not sufficient evidence of scholarship.

(4) Quantity of Scholarship

There is no bright line that delineates the quantity of written work necessary to constitute sufficient evidence of scholarship. There is no requirement that a candidate simply produce a specified minimum number of printed pages. Ordinarily, at least one piece of substantial scholarship and at least one other writing that reflects at least a significant scholarly effort, although of lesser scope, will be required in order to meet the standard of scholarship. Of course,

one publication may be a highly significant contribution to legal literature and would itself constitute satisfaction of the standard. At the same time, several publications of mediocre quality or pedestrian scope would not be sufficient evidence of scholarship.

In sum, the quantity of scholarship is not measurable in terms of pages or even number of pieces, but instead should be sufficient, in relation to the time spent at Georgetown, to demonstrate a devotion to intellectual inquiry and scholarly production that indicates a promise of a continued intellectually inquiring mind and scholarly productivity throughout the person's professional life. It follows that scholarly publications prior to coming to Georgetown cannot substitute for scholarly production while at Georgetown, but may be relevant insofar as they indicate that these qualities are not recently acquired.

(d) Service to the Institution and the Community

The candidate is presumed to devote substantially all of his or her professional time to the Law Center, including, in addition to the duties of teaching and scholarship, the responsibility to attend and participate in faculty meetings and to be available to students to meet their various legitimate needs. Activities outside the Law Center should include the utilization of professional ability in service to the community and the profession which may be manifested through activities of the Bar Association or other professional organizations or governmental or community organizations. What is important in measuring such activities in relation to tenure is the quality of service and the depth of involvement in community affairs and not mere membership in groups or peripheral involvement. Despite the long-term value and importance of these activities, it must be emphasized that full-time membership on a faculty involves a commitment to teaching and scholarship as one's principal activity. This observation is not intended to discourage wider professional involvement, but it is expected that the task of meeting

tenure standards, particularly for one not a veteran teacher or accomplished scholar, will ordinarily require a major devotion of one's time to Law Center and University work.

(e) Character, Integrity and Cooperativeness

These qualities, while essential, need no further explanation.