

THE UNIVERSITY OF CALIFORNIA AT BERKELEY
SCHOOL OF LAW (BOALT HALL)

**Standards and Procedures for Appointment and Promotion
of Nontenure-Track Faculty as Clinical Professors of Law**

(As revised July 13, 2000; February 15, 2006)

I. CLASSIFICATION AND DESCRIPTION

Faculty appointed to this track are classified within the University pursuant to the “Adjunct Professor” series, Academic Personnel Manual (APM) 280. APM 280-4a provides, in part:

Titles in [the Adjunct Professor] series may be assigned . . . to individuals who contribute primarily to teaching and have a limited responsibility for research or other creative work; these individuals may be professional practitioners of appropriate distinction.

Appointment to the Adjunct Professor series is appropriate for law faculty whose primary responsibility is teaching in the clinical or skills program, but who also have some responsibility — as set forth in these Standards and Procedures — for public service, research and other professional activities. Law faculty in this track shall be appointed as Acting Adjunct Professor of Law and Adjunct Professor of Law. So that these positions are most accurately described, these appointments carry the working titles of Acting Clinical Professor of Law and Clinical Professor of Law, respectively.

Appointment to this track is intended for full-time faculty whose primary responsibility is teaching in Boalt Hall’s clinical or skills program. The faculty may, in an exceptional case, appoint a part-time faculty member to this track.

Faculty appointed to this track are to be supported primarily by non-State funds, as provided by APM 280-4c and 280-16b.

II. APPOINTMENT AND PROMOTION STANDARDS

A. The Academic Personnel Manual

The Academic Personnel Manual describes the general criteria used to assess candidates for appointment or promotion in the Adjunct Professor series. APM 280-10 provides that candidates shall be judged by four criteria: (1) teaching; (2) professional competence and activity; (3) research and creative work; and (4) University and public service. These criteria are not specifically defined

within the APM for adjunct faculty. APM 280-10 provides: “Evaluation of the candidate with respect to these criteria shall take appropriately into account the nature of the University assignment of duties and responsibilities and shall adjust accordingly the emphasis to be placed on each of the criteria.” APM 210-1 (Instructions to Review Committees) discusses the four criteria of teaching, professional competence, research and creative work and service as applied to the professor series and the professor in residence series. APM 210-1 provides that its discussion applies, “with appropriate modifications, [to] appointees in the adjunct professor series.”

B. Applying these Criteria

Each of the subsections, below, describes how the four criteria, and the discussion of the four criteria contained in APM 210-1, apply “with appropriate modifications” to adjunct faculty. The overall purpose in modifying the criteria is to select and develop clinical and skills faculty members who are excellent teachers and highly-skilled practitioners, who advance the law and legal education through their writings, creative work and service activities. Promotion is based upon performance in all areas of faculty responsibility, but special emphasis should be given to teaching. While performance in research and creative work is one criterion for advancement, the research and creative work of clinical and skills faculty members are not to be evaluated under the same standards applied to tenure-track or tenured faculty, as described below. It should also be noted that the four criteria may substantially overlap. Thus, for example, drafting legislation or participating in litigation that raise important issues of public policy may, all at once, demonstrate professional competence, serve the public, and produce significant written materials.

The following considerations should guide the evaluation of clinical and skills faculty under the four criteria of APM 280-10 and the discussion of the four criteria contained within APM 210-1d:

1. Teaching

Teaching is the most significant duty of clinical and skills faculty. Before making an initial appointment to this track, the faculty should judge that a candidate has the potential to achieve excellence in teaching. Evidence of excellence in teaching is essential for advancement or promotion in this track.

APM 210-1d(1) provides, in part:

Clearly demonstrated evidence of high quality in teaching is an essential criterion for appointment, advancement, or promotion . . . In judging the effectiveness of a candidate’s teaching, the committee should consider . . . the candidate’s command of the subject; continuous growth in the subject field; . . . fostering of student independence and capability to reason; spirit and enthusiasm which vitalize the candidate’s learning and teaching; ability to . . . encourage high standards, and to stimulate advanced students to creative work;

personal attributes as they affect teaching and students; extent and skill of the candidate's participation in the general guidance, mentoring, and advising of students; effectiveness in creating an academic environment that is open and encouraging to all students.

In determining whether a candidate has achieved excellence in clinical or skills teaching, the following areas should be considered:

- (a) supervision of students' casework and legal writing;
- (b) preparation and selection of teaching materials;
- (c) selection of actual or simulated cases;
- (d) instruction in classroom sessions and in clinical fieldwork or simulations;
- (e) consideration of professional responsibility issues in legal practice;
- (f) contributions to the methods and substance of clinic or skills teaching;
- (g) service to clients;
- (h) contribution to the introduction or use of clinical or skills methodologies in non-clinical courses;
- (i) instruction in non-clinical courses;
- (j) service as a role model of a responsible and effective legal practitioner.

The relative importance of these areas will vary with the individual and his or her responsibilities. Not all of these areas will apply to all clinical and skills faculty.

2. Professional competence

APM 210-1d(3) provides, in part:

In certain positions in the professional schools . . . , a demonstrated distinction in the special competencies appropriate to the field and its characteristic activities should be recognized as a criterion for appointment or promotion. The candidate's professional activities should be scrutinized for evidence of achievement and leadership in the field and of demonstrated progressiveness in the development or utilization of new approaches and techniques for the solution of professional problems.

Clinical and skills faculty members are expected to develop a sophisticated knowledge of the law, legal institutions, and the lawyering process, and also demonstrate excellence in lawyering ability. In addition, faculty should establish a record of achievement and leadership in the field of legal education or the substantive field in which they teach.

3. Research and creative work

APM 210-1d(2) provides, in part:

Evidence of a productive and creative mind should be sought in the candidate's published research or recognized artistic production in original architectural or engineering designs, or the like.

~~In addition to their teaching,~~ Clinical and skills faculty members should contribute (1) to the development of the law, lawyering or legal education, or (2) to the improvement of legal institutions or procedures. Given the pragmatic nature of clinical and skills faculty members' work and the responsibilities inherent in teaching in this setting, clinical and skills faculty members are not expected to publish work of the same type and quantity as non-clinical tenure-track faculty. Nor is the work of clinical and skills faculty members to be evaluated under the same standards applied to the work of tenure-track faculty, though the work should be of high quality and significance. For the promotion of clinical and skills faculty, there is the expectation and evaluation of one area of written work, or a combination of several areas of written work, that the clinician has written or to which the clinician has made a substantial contribution, which could be:

- (a) writing on law, lawyering, legal education, legal institutions or procedures;
- (b) practice-oriented materials (including, for example, manuals, articles in practice/bar publications, cd-roms, or other curriculum or materials intended to assist practitioners); or
- (c) briefs, technical reports, policy recommendations or other documents, submitted in conjunction with legal, legislative or administrative proceedings, ~~which the clinician has written or to which the clinician has made a substantial contribution.~~

Clinic work product meeting the above criteria shall be considered in evaluating a clinician, but there is an expectation that the clinician will have additional creative work, of the type listed in categories (a)-(c) above, that is suitable for evaluation.

4. University and public service

APM 210-1d(4) provides, in part:

The faculty plays an important role in the administration of the University and in the formulation of its policies . . . Services by members of the faculty to the community, State, and nation, both in their special capacities as scholars and in areas beyond those special capacities when the work done is at a sufficiently high level and of sufficiently high quality, should likewise be recognized as evidence for promotion.

Clinical and skills faculty members are expected to share in the faculty's committee work at Boalt Hall — and committee work within the University, where University rules permit — and to assist in the administration of the clinical and skills programs in which they may teach. In assessing the public service of clinical and skills faculty members, special recognition should be given to participation in professional activities, such as drafting of legislative or administrative proposals, serving on public advisory committees or commissions or bar committees, participating in litigation that raises important questions of public policy, or participating, through publication or teaching, in continuing professional education.

III. APPOINTMENT AND PROMOTION PROCEDURES

A. Procedures for Initial Appointment as Acting Clinical Professor of Law or Clinical Professor of Law

When Boalt Hall plans to hire a clinical or skills faculty member under this track, the Dean shall, with the advice of the Faculty Appointments Committee, appoint an *ad hoc* Clinical Faculty Appointments Subcommittee. To the extent feasible, the members of this Subcommittee shall include clinical or skills faculty members and non-clinical faculty members in roughly equal numbers, and shall include at least one member of the Faculty Appointments Committee. The Clinical Faculty Appointments Subcommittee will advertise the position and create a diverse pool of candidates from which the Subcommittee will identify one or more prospective candidates, who will be interviewed by non-clinical, clinical and skills members of the faculty and will meet with students. The Subcommittee should also consult with student members of the Clinical Program Committee and the student liaison to the Faculty Appointments Committee, if appropriate. The Subcommittee may also consult with the Executive Director of the East Bay Community Law Center. If the Subcommittee decides to recommend an appointment, it shall forward its recommendation to the Faculty Appointments Committee. If the Faculty Appointments Committee decides to recommend an appointment, it shall forward its recommendation to the faculty.

When a person who has already taught at Boalt Hall under a different status is being considered for appointment to this track, the *ad hoc* Clinical Faculty Appointments Subcommittee may decide not to undertake a full search or to submit the person to interviews with faculty and meetings with students. The Subcommittee may not forego a full search unless the Law School obtains a search waiver from the University under existing procedures and criteria.

An initial appointment to this track shall ordinarily be at the level of Acting Clinical Professor of Law. A candidate with appropriate prior experience may receive an initial appointment as Clinical Professor of Law or may be appointed as Acting Clinical Professor with credit towards the usual period of service prior to mid-career review or promotion.

Decisions on an appointment recommendation shall be made by a vote of all tenured and tenure-track faculty, under the same rules that apply to a recommendation for appointment to the tenure track.

B. Duration of Appointment as Acting Clinical Professor of Law

An appointment as Acting Clinical Professor of Law may be made for a period of up to two years, depending upon the availability of funding, and ordinarily ends on June 30. The Dean may recommend reappointment after consultation with the Associate Deans, Chair of the Clinical Program Committee, Director of the Center for Clinical Education and others, if appropriate. A person holding an appointment as Acting Clinical Professor of Law should ordinarily receive notice of non-renewal by April 1 of the year in which an appointment will expire. If the appointment is not renewed because of lack of work, lack of funds, or programmatic change, notice of non-renewal should be given as soon as practicable but no later than thirty days prior to termination.

C. Procedures for Mid-Career Review and for Evaluation for Promotion of Faculty Appointed as Acting Clinical Professor of Law

A person holding an appointment as Acting Clinical Professor of Law should ordinarily be reviewed for his or her progress towards promotion no later than during the seventh semester in this rank. He or she should ordinarily be considered for promotion to Clinical Professor of Law no later than during the sixth year in this rank.

When an Acting Clinical Professor of Law is reviewed for progress towards promotion, or is under consideration for promotion to Clinical Professor of Law, the Dean shall appoint a review committee comprised of three law school faculty members. To the extent feasible, the members of this committee shall include at least one faculty member who teaches in the clinical or skills program. A faculty member holding an appointment as Clinical Professor of Law may serve on a review committee. As part of its review of the Acting Clinical Professor's teaching, the review committee should ordinarily interview a number of students familiar with the faculty member's clinical or skills teaching. When the committee solicits outside reviews, the committee should ordinarily also seek letters from practitioners or judges knowledgeable in the faculty member's field as well as letters from former students of the faculty member. The review committee shall submit a written report to the faculty.

Decisions on recommendations regarding the progress of a faculty member towards promotion, and decisions on recommendations for promotion, shall be made by a vote of all tenured and tenure-track faculty, under the same procedures that apply to mid-career reviews of tenure-track faculty and recommendations for promotion to the rank of Professor of Law.

As set forth in APM 280-81, the general provisions of APM 220-80 (which describe the procedures for review of tenure-track faculty) apply to promotions within this track. In addition, the procedures described in APM 280-85 apply to promotions to the rank of Clinical Professor of Law.

Pursuant to APM 280-16(c), a faculty member may not serve as Acting Clinical Professor of Law, either alone or in combination with service as Lecturer (at more than 50% time) or any of the other titles described in APM 133-0-c, for more than a total of eight years. An Acting Clinical Professor who is not promoted to Clinical Professor by the end of the sixth year will generally not be

reappointed (but may, in special circumstances, be reappointed in rank for up to an additional two years, subject to the limitation set forth in APM 280-16(c)).

D. Duration of Appointment as Clinical Professor of Law

An appointment as Clinical Professor of Law is ordinarily for a period of (but not longer than) five years, ~~with a presumption of renewal depending upon the availability of funding. The Dean may recommend reappointment.~~ After consultation with the Associate Deans, Chair of the Clinical Program Committee, and Director of the Center for Clinical Education, ~~and others, if appropriate~~, the Dean shall recommend reappointment unless there is good cause for non-reappointment, which may include but is not limited to a lack of work, lack of funds for the position, or programmatic change. If the Dean does not recommend reappointment, the Clinical Professor of Law should ordinarily receive written notice twelve months in advance of the expiration of the appointment. ~~However, if the appointment is not renewed because of lack of work, lack of funds, or programmatic change, written notice of non-renewal should be given as soon as practicable, but no later than sixty days prior to the expiration of the appointment.~~

Prior to appointment as Clinical Professor of Law, a person shall be notified in writing of the source and expected duration of the funding for his or her position, that the appointment is for a specified period and that the appointment ~~*ipso facto* ends~~ is presumptively renewable at the specified date. The person shall also be notified in writing that the appointment may terminate during the contract term for good cause, which may include but is not limited to lack of work, lack of funds for the position, or programmatic change.

IV. SALARY

Faculty members appointed to this track shall ordinarily be paid according to the regular Law Professor Salary Scale. Normal periods of service at each step shall coincide with those of the Professor series described in APM 220-18-b. A salary below the salary for Step I on the regular Law Professor Salary Scale may be paid in an appropriate case. In such a case, salary shall be paid on the Senior Lecturer with Security of Employment scale until such time as the salary reaches Step I on the regular Law Professor Salary Scale. At that point, salary shall be paid on the Law Professor Salary Scale. [Note: Revised as per Addendum dated April 27, 2004.]

As provided in APM 220-18-b(4), service at Step V may be of indefinite duration. Advancement to Step VI usually will not occur after less than three years of service at Step V, and will be granted only on evidence of highly distinguished scholarship, highly meritorious service, and excellent University teaching. There must be evidence of excellence and high merit in original scholarship or creative achievement, teaching and service and, in addition, great distinction, recognized nationally or internationally, in scholarly or creative achievement or in teaching. Advancements beyond Step VI usually will not occur after less than three years at each step and will be granted only on evidence of continuing achievement at the level required for advancement to Step VI.

V. GOVERNANCE

Faculty members appointed to this track may attend all faculty meetings, except meetings concerning mid-career reviews of tenure-track faculty and promotions to tenure, and Acting Clinical Professors of Law may also not attend faculty meetings concerning mid-career reviews and promotions to this track. Faculty members appointed to this track may attend meetings on entry-level and lateral appointments to the tenure track, as well as all personnel policy meetings, such as meetings concerning the Sullivan Report.

~~Faculty members appointed to this track as Clinical Professors of Law may attend all faculty meetings concerning appointments, mid-career reviews and promotions to this track. Faculty members appointed to this track as Acting Clinical Professors of Law may attend faculty meetings concerning initial appointments to this track, but may not attend faculty meetings concerning mid-career reviews of Acting Clinical Professors or specific promotions from the rank of Acting Clinical Professor of Law to Clinical Professor of Law.~~

When faculty members appointed to this track may attend meetings of the faculty, they may have the privilege of the floor for discussion and may vote unless prohibited by University or Academic Senate Rules. ~~However, pursuant to Bylaw 45 of the University of California Academic Senate, they may not vote.~~

Faculty members appointed to this track are eligible for service on all University committees and committees within Boalt Hall, except where prohibited by University or Academic Senate Rules. ~~except for the Tenure Advisory Committee, the Faculty Appointments Committee, the Admissions Committees (J.D., LL.M., JSP and Transfer), and the Disqualification Appeals Committee, and they may serve on University committees when permitted by University rules.~~ Faculty members appointed to this track may serve on an *ad hoc* Clinical Faculty Appointments Subcommittee.

VI. LEAVES

Faculty members appointed to this track ~~ordinarily~~ are ~~ineligible~~ for leave with pay under APM 758. ~~In exceptional circumstances, the Dean nevertheless may approve a request for a leave with pay to pursue a substantial scholarly research project intended to lead to academic publication, or a substantial creative activity. Before doing so, the~~ The time frame and timing of such leaves are to be determined by the Dean shall in consultation with the Associate Dean for the J.D. Program, the Chair of the Clinical Program Committee, the Director of the Center for Clinical Education and others, if appropriate. ~~Leaves with pay must be in the interest of the University and their approval must comply with applicable campus procedures. They may be granted only on an extraordinary basis and not in lieu of sabbatical leave, for which faculty members appointed to this track are not eligible.~~