

Texas Tech University School of Law

APPOINTMENT, PROMOTION, AND TENURE OF FACULTY Operating Policy

(Approved March 16, 1977, with amendments made August 15, 1990; October 25, 1994; April 30, 2003; April 18, 2007; October 19, 2011; April 2, 2014; March 25, 2015; April 22, 2015; May 15, 2015; February 24, 2016; April 20, 2016; December 16, 2016; March 27, 2019; and May 10, 2023)

I. GENERAL RULES.

§ 1. VOTING.

If application of any of the rules in Section III, Section IV, or Section V, or Section VI yields a number that is not a whole number, that number shall be rounded up to the next higher whole number if the decimal value is .5 or greater and shall be rounded down to the next lower whole number if the decimal value is less than .5.

§ 2. EFFECT OF AMENDMENTS.

The provisions of Sections III and IV that are in effect at the beginning of a person's most recent continuous appointment to the faculty shall apply to the review of that person for promotion or tenure or both. However, notwithstanding the foregoing sentence, a person may elect to have the provisions of the then-current Sections III and IV applied to the review of that person. Any such election must be made in writing to the Dean on or before August 15th of the year in which the person exercising the election is to be reviewed.

II. CRITERIA FOR APPOINTMENT, PROMOTION, AND TENURE.

The principal functions of the School of Law are to organize, to increase, and to communicate knowledge of the law. The chief instrument for performing these functions is the faculty. In addition to the General Criteria for Promotion and Tenure noted at paragraph 4 of Texas Tech University OP 32.01, present and prospective faculty members must be evaluated on the following criteria:

§ 1. EXCELLENCE IN TEACHING AND COMMUNICATING KNOWLEDGE OF THE LAW.

To be considered are:

- a. Recommendations of the committee responsible for evaluating the candidate,
- b. When available, the written evaluations of the students,
- c. Comments or written evaluation of any faculty member, educator, former

student, or member of the Bar acquainted with the candidate's performance in the educational function or in professional practice,

- d. Any other objective demonstration of the candidate's excellence or potential for excellence in teaching or directing productive work by students.

§ 2. EXCELLENCE IN WRITING AND RESEARCH.

To be considered are:

- a. Publication of legal writing, evaluated on the basis of:
 - (1) its scholarly quality,
 - (2) its originality, and
 - (3) its contribution to the growth and understanding of the law.
- b. Research, together with its result. This research may be of any type and shall be evaluated on the basis of:
 - (1) its thoroughness,
 - (2) what has been accomplished with it, and
 - (3) what may be accomplished with it.
- c. Changes in the law which have been proposed or effected pursuant to such proposals. This activity may be evidenced by:
 - (1) statutory proposals or enactments,
 - (2) advocacy for change through the judicial process or
 - (3) regulatory proposals or adoptions.

§ 3. EXCELLENCE IN NATIONAL, STATE, COMMUNITY, UNIVERSITY, LAW SCHOOL, OR PROFESSIONAL SERVICE.

To be considered are:

- a. Contributions to legal profession,
- b. Committee work,
- v. Appointive or elective law-related positions,

- d. Participation in workshops, seminars, making presentations or giving speeches on law-related subjects,
- e. Any other activity which serves to promote the University, law school or a better understanding of the law.

§ 4. EXCLUSIVITY OF CRITERIA.

These criteria are the exclusive basis for making appointments, giving promotions, and admitting to tenure. Evaluation of a candidate shall be based on all three criteria. Faculty members must strive to be objective in their professional judgment of colleagues upon whose appointments, retention, promotion, and tenure their opinion may be sought. Professional judgments of colleagues should be based solely upon an objective appraisal of abilities in teaching, research, writing and other professional activities and should not be influenced by extraneous considerations of the colleague's political, social or religious views, or views concerning the operation and administration of the University and the School of Law.

§ 5. APPLICATION OF CRITERIA.

a. The criteria should be applied as the circumstances of the particular case require, for example: initial appointments to assistant professor should be made on the basis of the demonstrable potential of the candidate to excel. Initial appointments or promotions to associate professor should be made on the basis of demonstrated excellence. Initial appointments or promotions to professor should be made on the basis of demonstrated excellence. Admission to tenure, to be considered apart from promotions, should also be made on the basis of demonstrated excellence.

b. The above criteria and the procedures which follow in Parts II, III, IV, and V shall control appointments, promotions and admissions to tenure at the School of Law. Policies on appointments, promotions and tenure generally applicable to other divisions of the University shall be given effect unless they are inconsistent with these criteria and procedures.

III. APPOINTMENT OF FACULTY.

§ 1. DUTIES OF THE PERSONNEL COMMITTEE.

The personnel committee shall have the responsibility for:

- a. The preliminary selection of candidates any type of faculty appointment;
- b. Recommending to the faculty that invitations to visit the campus be extended to selected candidates;
- c. Recommending to the faculty that offers of appointment be extended to particular candidates, together with the general recommended terms, other than salary, of any such offers.

§ 2. VISITING & ADJUNCT FACULTY APPOINTMENTS.

a. The Dean shall be principally responsible for the appointment of visiting faculty whose term shall not exceed 2 consecutive long semesters. The Dean shall also be principally responsible for appointing adjunct faculty members. The Dean shall confer with the Curriculum Committee to determine the need for visiting and adjunct faculty. The Dean may delegate to the Personnel Committee the responsibility for screening visiting and adjunct candidates.

b. Visiting appointments shall be approved by the faculty with at least two-thirds of the faculty voting and eligible to vote, and at least a majority of them present and eligible to vote, voting affirmatively in favor of the appointment.

c. Adjunct appointments need not be approved by the faculty unless the faculty by majority vote so requests. Where requested the voting procedure shall be the same as for a visiting appointment.

§ 3. PRELIMINARY SELECTION OF CANDIDATES.

The personnel committee shall make a preliminary selection of candidates for any type of faculty appointment by:

- a.** Soliciting information about current appointment needs from the faculty, the Dean and the curriculum committee;
- b.** Examining and evaluating information about persons interested in law teaching obtained from:
 - (1)** Suggestions by the faculty and Dean;
 - (2)** The Association of American Law Schools Faculty Appointments Register and Law Teachers Directory;
 - (3)** Personnel committee files;
 - (4)** Such other sources as may be available, including applications sent directly to the School of Law by any candidate.
- c.** Sending representatives of the School of Law to interview qualified candidates at other law schools who are interested in law teaching;
- d.** Sending representatives of the School of Law to any meeting scheduled to include faculty recruiting activities as all or part of the meeting including but not limited to the annual Association of American Law Schools recruitment conference.

For the purposes of the operation of the personnel committee, only § 3.b.(1) is mandatory in all cases. The other subsections need to be complied with for only so long as is necessary to identify a candidate who is qualified on the general criteria listed in paragraph I or who possesses a high degree of potential on the general criteria listed in paragraph I.

§ 4. CAMPUS INTERVIEW VISITS.

In the case of a candidate for a regular, full-time, faculty appointment, a campus visit is normally required before an offer is extended. In the case of a candidate for a visiting faculty appointment, no campus visit is required before an offer is extended if the proposed visiting period is for one academic year or less, but the personnel committee may recommend that a visit for interviews should nevertheless be scheduled.

§ 5. PROCEDURE FOR CAMPUS VISITS.

As soon as conveniently possible after a candidate has accepted an invitation to visit the campus, the faculty shall be informed of the dates and times when the candidate will be available at the School for interviews and shall be furnished with biographical information on the candidate. Visits shall be of as uniform a time and type as practicable and each visitor shall interview with as many of the faculty as possible. Every effort shall be made to provide each member of the faculty an opportunity to interview all visitors. The candidate will also be interviewed by a representative group of students.

§ 6. PROCEDURE FOR RECOMMENDING APPOINTMENTS.

a. If a candidate for faculty appointment has been selected and has visited the campus under the procedures of §§ II.3-5 above, the personnel committee shall meet as soon as practicable after the visit for the purpose of voting on the candidate and the terms of his or her appointment to the faculty. The results of the personnel committee's deliberations shall be reported to the faculty with the committee's recommendation at the next regular faculty meeting or at a faculty meeting specially called for the purpose of considering personnel matters.

b. If a candidate for faculty appointment has been selected under the procedures of § II.3 but is not required to visit the campus under the procedures of §§ II.3-5, the personnel committee shall meet as may be timely and convenient for the purpose of voting on the candidate and the terms of his or her appointment to the faculty. The results of the personnel committee's deliberations shall be reported to the faculty with the committee's recommendation at the next regular faculty meeting or at a faculty meeting specially called for the purpose of considering personnel matters.

§ 7. FACULTY VOTE ON APPOINTMENTS.

a. All Law Faculty Members (Professors of Law, Professors of Practice, and Clinical Instructors) shall be eligible to vote on the appointments of candidates for Law Faculty positions, Professor of Practice positions, and Clinical Instructor positions. A quorum exists if two-thirds of faculty members eligible to vote are present. Before an offer can be extended, a candidate must receive both an affirmative vote from at least two-thirds of the faculty members voting and, if any

faculty members abstain from voting, from at least a majority of those present at the meeting.

Comment:

The dual requirements for approval are meant to prevent appointment of any candidate who does not have broad support from the faculty, as illustrated in the following example.

The Personnel Committee recommends two candidates for appointment. Thirty faculty members are eligible to vote, and twenty-four of those attend the faculty meeting. The two-thirds quorum requirement is met.

Sixteen of the faculty members present vote affirmatively for Candidate A, six votes no, and two abstain. Candidate A is eligible to receive an offer, having received a greater than two-thirds affirmative vote from those faculty members who voted (16-6) and an affirmative vote from more than a majority of those present at the meeting (16 out of 24).

Eleven of the faculty members present vote affirmatively for Candidate B, five votes no, and eight abstain. Candidate B is not eligible to receive an offer. While receiving a two-thirds affirmative vote (11-5), Candidate B did not receive an affirmative vote from a majority of those present at the meeting (only 11 out of 24).

b. Absentee or proxy voting shall not be permitted, but a member of the faculty eligible to vote on appointment shall be deemed present for all purposes if the member participates in the meeting using a speaker phone or other technology that allows the member to give and receive information and interact with the other members in real time during the meeting. A member of the eligible voting faculty who participates in the meeting by use of a speaker phone or other technology may designate a member of the faculty, either before or during the meeting, to record his or her vote when a vote is called during the course of the meeting, provided that the designated faculty member is physically present at the meeting. This designation shall be recorded in the minutes of the meeting, but provision must be made to ensure that the vote cast by telephone or by other electronic means is known only to the designated faculty member.

c. If the personnel committee has recommended appointment with tenure, the candidate must receive the required two-thirds vote and the required majority vote on that term of the appointment. The personnel committee may only recommend appointment with tenure if it conducts an evaluation of the candidate comporting as nearly as possible with the evaluation procedures required by part IV and if an affirmative vote of at least two-thirds of the tenured faculty voting and eligible to vote and at least a majority of those present and eligible to vote, at a meeting at which a quorum is present, has been obtained on tenure.

d. All votes taken on appointments and the terms thereof shall be by secret ballot. The ballots shall be counted and the results announced to the faculty at the end of the balloting. If more than one person is to be voted on (for one or more positions) the order of balloting shall be recommended by the personnel committee. A preference ballot shall be taken if more candidates are approved than there are positions available.

e. All tenured and tenure-track faculty of the School of Law shall be eligible to vote on any appointment issue.

f. Matters discussed at a meeting regarding candidates for appointment to the faculty will be treated as confidential and not disclosed to persons not present at the meeting, except for faculty members otherwise eligible to vote but who were unable to attend the meeting at which the vote is taken, or when integral to faculty and University formal proceedings and then, no personal identifying information may be used.

§ 8. EXTENSION OF OFFERS.

a. The Dean shall extend an offer to each candidate, on behalf of the School of Law, who has been approved under § II.7 above, incorporating such terms as may have been approved under the same section. The Dean should advise the candidate on criteria and procedures of the School of Law pertaining to promotions and admission to tenure; the provisions of sections III and IV should be specifically pointed out. The Dean shall determine the salary terms to be extended with the offer.

b. In no instance shall an offer be made or any terms of appointment extended to anyone who has received less than the votes required for appointment and terms of appointment. The terms and conditions of every appointment shall be stated in writing and shall be in the possession of both the University and the prospective faculty member before the effective date of the appointment.

§ 9. DUTY TO KEEP FACULTY FULLY INFORMED.

The personnel committee shall make such reports as may be required to keep the faculty informed about personnel matters. The records of the personnel committee, including files on, and correspondence with, persons interested in law teaching shall be available for inspection by members of the faculty upon request so the faculty may keep itself informed on personnel matters and make suggestions to the personnel committee on the subject of faculty appointments.

IV. THIRD-YEAR REVIEW OF UNTENURED FACULTY.

§ 1. APPLICATION.

Texas Tech University Operating Policy and Procedure (OP) 32.01 requires that all untenured faculty members be evaluated in their third year with regard to progress toward tenure. The Final Faculty Rules for Appointment, Promotion, and Tenure of Faculty for the School of Law allow untenured faculty members in the fall of their third years of appointment to apply for promotion or tenure or both. If an untenured faculty member chooses to apply only for promotion in the fall of his or her third year, that review process will satisfy the third-year review required by the OP, although the tenured faculty will assess the faculty member's progress toward tenure by a vote as described below.

§ 2. PROCEDURE FOR REVIEW.

a. Reviewing Faculty. The members of the tenured faculty are the reviewing faculty.

b. Review Committee. Three members of the tenured faculty will comprise a Review Committee for each untenured faculty member. In years with more than one untenured faculty members to be reviewed, each untenured faculty will have a separate Review Committee composed of different members of the tenured faculty, if possible.

c. Dean's Preparation. In the spring of an untenured faculty member's second year of appointment, the Dean will consult with the faculty member concerning his or her plans to apply for promotion or tenure or both in the fall. If the faculty member plans not to apply for promotion or tenure or both, the Dean will inform the faculty member of the third-year review process and consult with the faculty member about the composition of the review committee to propose to the tenured faculty. On or before August 15 at the beginning of the third year of appointment for untenured faculty members, the Dean will prepare a list of the untenured faculty members to be reviewed.

d. Meeting of Tenured Faculty. If one or more untenured faculty members are to be reviewed, the Dean will call a meeting of the tenured faculty. The meeting will be held by September 15 of each year. At the meeting, the Dean will present the list of untenured faculty members for verification. The Dean will also announce the composition of the proposed Review Committee(s). Members of the tenured faculty may consult with the Dean, within one week following the meeting, about possible changes to the composition of the Committee(s). The faculty member being reviewed will be given an opportunity to object to any member of the Committee

e. Duties of Review Committees. It will be the responsibility of the members of the Committees to inform themselves fully as to matters bearing on the criteria listed in Part I as applied to the faculty member under review. Information may be obtained by visiting the faculty member's classes, by examining the faculty member's written products, by discussion with the faculty member regarding law school, university, and community service, by examination of the faculty member's student evaluations, by submitting for written review by faculty members at other accredited law schools any publications of the faculty member, and by such other means as may be reasonably related to the inquiry, but the faculty member must be advised of any such other means which the Committee proposes to use. The faculty member will also be provided an opportunity to suggest such other means for use by the Committee.

- (1) The faculty member under review will be allowed to see and comment on all material considered by the review team or the reviewing faculty.
- (2) The Committee will conduct its own independent evaluation on behalf of the faculty. The Committee will prepare a written report on the untenured faculty member which will be submitted to the faculty at least five working days prior

to the evaluation meeting. The Committee, in its discretion, may call for a faculty meeting during the fall semester prior to the evaluation meeting. The Committee will include in its report a finding of whether the faculty member under review is making satisfactory progress toward tenure. If the Committee finds that the faculty member under review has not made satisfactory progress toward tenure, the Committee will include in its report recommendations for the faculty member to address deficiencies in one or more of the areas of teaching, creative activity or research, and service.

f Evaluation by Tenured Faculty. Members of the tenured faculty will review the report of the Review Committee. If a member of the tenured faculty disagrees with the finding of the Committee as to the progress of the faculty member under review toward tenure, the tenured faculty member should notify a member of the Review Committee.

g Evaluation Meeting of Tenured Faculty. A meeting of the tenured faculty will be called by the Dean at a date in early to mid-November to consider the report and advise the Dean on the progress of the faculty member under review toward tenure. Matters discussed at the evaluation meeting regarding untenured faculty members will be treated as confidential and not disclosed to persons not present at the meeting, except for faculty members otherwise eligible to vote but who were unable to attend the evaluation meeting, or when integral to faculty and university formal proceedings and then, no personal identifying information may be used.

h Voting.

- (1) **Quorum.** A quorum will exist if two-thirds of the tenured faculty members are present. If the computation of the number of persons required yields a number that is not a whole number, that number will be rounded up to the next higher whole number if the decimal value is .5 or greater and down to the next lower number if the decimal value is less than .5.
- (2) **Purpose.** The purpose of the vote is to assess the untenured faculty member's progress toward tenure. A finding of satisfactory progress by this vote is not binding on subsequent votes on the untenured faculty member's application for promotion or tenure.
- (3) **Remote Voting.** Absentee or proxy voting will not be permitted, but a member of the faculty eligible to vote shall be deemed present for all purposes if the member participates in the meeting using speaker phone or other technology that allows the member to give and receive information and interact with the other members in real time during the meeting. A member of the tenured faculty who participates in the meeting by use of a speaker phone or other technology may designate another member of the faculty, before or during the meeting, to record his or her vote when a vote is called during the course of the meeting, provided that the designated faculty member is physically present at the meeting. This designation shall be recorded in the minutes of the meeting, but

provision must be made to insure that the vote cast by telephone or by other electronic means is known only to the designated faculty member.

- (4) **Faculty Members on Leave.** Faculty members on leave will not be eligible to vote nor counted in the quorum unless they are present at the evaluation meeting.
- (5) **Form of Ballot.** The ballot shall provide the choices: “Yes,” “No,” and “Abstain.” Each ballot shall also include space in which the voter is requested to indicate the reason for his or her vote, but failing to so indicate will not invalidate the ballot. An abstention shall be counted for purposes of determining the quorum but shall not be counted as voting or for any other purpose.

i Results of Balloting. An untenured faculty member must receive an affirmative vote from a majority of those voting and eligible to vote for a finding of satisfactory progress towards tenure. If the faculty member under review has not made satisfactory progress towards tenure as a result of the vote, the Committee will consult with the Dean to determine recommendations to address deficiencies in one or more areas of teaching, creative activity or research, and service.

j Retention of Committee Report. The report of the review committee will be retained and included in the dossier required by OP 32.01 if the faculty member applies for tenure.

IV. PROMOTION OF FACULTY.

§ 1. TIME FOR REVIEW.

a. The *usual* time for first evaluation review of a candidate in the Law School that may lead to the recommendation of promotion is as follows:

- (1) For assistant professors, the review process for promotion shall be in the fall term of their third year in that rank at the Law School;
- (2) For associate professors who have at least two years of teaching experience at the Law School before promotion in that rank, the review process for promotion shall be in the fall term of their fourth year in that rank at the Law School;
- (3) For associate professors who are initially appointed at that rank at the Law School, the review process for promotion shall be in the fall term of their fifth year in that rank at the Law School.

b. A faculty member may be considered earlier than the usual time, but only in extraordinary circumstances with approval by the Dean.

c. In accordance with Texas Tech Operating Policy and Procedure 32.01, if a faculty member does not otherwise receive a promotion review by his or her third year at the Law School,

he or she will receive a written assessment and recommendation regarding his or her progress toward promotion and tenure in his or her third year on the Law School faculty as provided in § III above.

§ 2. DETERMINATION OF ELIGIBILITY FOR REVIEW.

Before April 15 of each year when a faculty member is eligible for review for promotion the following academic year, the Dean shall prepare a list of the candidates to be reviewed for promotion. A candidate shall be reviewed in accordance with the above schedule unless the candidate requests in writing to the Dean that the consideration for promotion be changed. If a request for a delay in review is submitted to the faculty, a review may nevertheless be undertaken if a majority of the faculty eligible to vote on the promotion votes to deny the request.

§ 3. PRELIMINARY MEETING OF REVIEWING FACULTY.

a. If one or more candidates may be reviewed during a fall term, the Dean shall, under normal circumstances, call a meeting before the May hooding ceremony of the prior Spring semester of all faculty who are expected to be eligible to vote on one or more of the promotion questions which will require determination.

b. At the preliminary meeting of the reviewing faculty, the Dean will present the list of candidates to the reviewing faculty for verification.

§ 4. APPOINTMENT OF THE PROMOTION COMMITTEE.

a. After consultation with the reviewing faculty at the preliminary meeting, the Dean shall appoint, within one week following the meeting, a three-member Promotion Committee for each candidate to be reviewed and the candidate shall be given an opportunity to object to one or more members of the team before the members are notified of their appointment. Under normal circumstances, the Dean will appoint Promotion Committees by April 15 of the academic year preceding the vote on a candidate's promotion. The Promotion Committee shall be composed of persons eligible to vote on promotion of the candidate.

b. The Dean and Associate Dean for Academic Affairs will hold a meeting with the chairs of the promotion committees to review the promotion processes, including the procedures for soliciting outside reviews of scholarship.

§ 5. DUTIES OF THE PROMOTION COMMITTEES.

a. The Promotion Committees shall fully inform themselves about their candidate's qualifications for promotion based upon the criteria listed in Section I. Committees may obtain and evaluate information about their candidate's qualifications by: (1) visiting the candidate's classes; (2) reviewing the candidate's scholarship; (3) reviewing the candidate's service to the law school, the University, and the community; (4) examining the candidate's student evaluations; (5) in coordination with the Associate Dean for Academic Affairs, select outside evaluators of the candidate's scholarship as indicated in §§ 6-13; and (6) such other means as may be reasonably

related to the inquiry, but the candidate must be advised of any such other means which the team proposes to use. The Committees shall also afford their candidate an opportunity to suggest other means of evaluating the candidate's qualifications for promotion. Candidates must disclose which letters come from reviewers with whom they have a relationship that might raise a potential conflict of interest, such as collaborators, coauthors, former professors, or students. The total number of letters is not restricted.

b. The candidate shall be allowed to see and comment on all material considered by the Committees and the reviewing faculty. This requirement may be waived by the candidate.

c. The Committees shall conduct their own independent evaluation on behalf of the faculty. The Committees shall prepare a written report on the candidate which shall be submitted to the faculty at least five working days before the evaluation meeting. The Committees, in their discretion, may call for a faculty meeting during the fall semester before the evaluation meeting.

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On April 20, 2016, the law faculty unanimously approved the Administrative Guidelines on Outside Reviewers in sections 6 through 13. The Administrative Guidelines ensure that promotion packets submitted to the University for law faculty are consistent with University operating policies and expectations, and that law faculty candidates have the best possible chance of obtaining approval at the University level. They are designed to address issues that have arisen in the past, to make the process more consistent for all candidates, and to shift some of the administrative burden associated with obtaining outside scholarship reviews.

§ 6. SELECTING OUTSIDE EVALUATORS.

Selections should be consistent with TTU OP 32.01. The candidate's chair should work with the other committee members and the candidate to prepare a list of at least six possible outside evaluators. The evaluators should be experts in the substantive area of the scholarship to be reviewed. The evaluators typically should be legal academicians, although in some cases practitioners, judges, and academicians in other areas could be acceptable. The University has expressed concern in the past about non-academicians who do not appear to have a record of producing scholarship. Whenever possible, at least one evaluator should teach at an [AAU school](#), (which are the same schools listed on TTU's list of "aspirational peers.") For other evaluators, the committee might consider those who teach at a school on TTU's "peer institutions" list, or from a school in one of the Big 5 athletic conferences (ACC, Big 10, Big 12, Pac-12, SEC).

a. The candidate may nominate individual evaluators, as may the committee members.

b. The chair will maintain a list of all nominations and who made them.

c. The committee should share the full list with the candidate, discuss the evaluators with the candidate, and ask for the candidate to disclose, in writing, any current or prior relationship

with each possible evaluator. For example: Has the candidate worked for or with the evaluator? Did the candidate attend law school with the evaluator? Was the evaluator one of the candidate's law professors? Does the candidate consider the evaluator a personal friend? Has the candidate served as an evaluator of the proposed evaluator's work?

d. The committee should conduct preliminary research on each potential evaluator and select at least three, and up to five. As indicated in § 13, alternate evaluators may be designated. The chair may consult with the Dean or Associate Dean for Academic Affairs if he or she has questions or concerns about a possible evaluator.

e. The chair or another committee member should contact each selected evaluator to gauge the individual's desire and availability to serve.

f. Once selected, the candidate should not communicate with an evaluator about the review or specific materials to be reviewed. If a candidate is contacted by an evaluator about the review or specific materials to be reviewed, the candidate should contact his or her chair and disclose the contact.

§ 7. SUBMITTING EVALUATOR NAMES TO THE ASSOCIATE DEAN FOR ACADEMIC AFFAIRS:

No later than July 5, the chair should submit electronically to the Associate Dean for Academic Affairs:

- a.** The names, title, and contact information for each evaluator.
- b.** Which pieces of scholarship each evaluator will review.
- c.** The candidate's written disclosure of any relationship with the selected evaluators.

§ 8. SUBMITTING MATERIALS TO THE ASSOCIATE DEAN FOR ACADEMIC AFFAIRS.

No later than July 5, the committee or candidate should create and share with the Associate Dean for Academic Affairs electronic versions of all pieces of scholarship to be reviewed (.pdf is usually preferable) and a current copy of the candidate's CV. If a piece of scholarship cannot be placed into the account electronically, the committee or candidate should provide sufficient copies to the Associate Dean for distribution to the appropriate evaluators. The Associate Dean's office will create a cloud folder for each candidate's materials that can be shared with evaluators. If a faculty member is completing a piece he or she wishes to be considered and cannot meet the July deadline, please note that information and then submit it to the Associate Dean when completed. It may be difficult to obtain timely reviews for any pieces submitted after mid-September.

§ 9. SUBMITTING MATERIALS TO THE EVALUATOR.

No later than July 20, the Associate Dean for Academic Affairs will send a letter containing instructions to each evaluator and also share the "account" or hard-copy materials with the appropriate reviewer.

§ 10. INSTRUCTIONS TO EVALUATORS.

The letter from the Associate Dean to the evaluator should:

- a.** Ask the evaluator to spend a paragraph or so describing his or her background and expertise to serve as an evaluator for the candidate.
- b.** Request the evaluator to submit a current CV along with the written review.
- c.** Request the evaluator to describe if and how he knows the candidate.
- d.** Provide our standard for promotion or tenure, as appropriate, and ask the evaluator, in a summary paragraph, to indicate whether he or she believes the candidate meets Texas Tech's scholarship standard. The letter will not ask whether the candidate would meet the standard at the evaluator's school.
- e.** Explicitly state what the faculty member is being considered for (*e.g.*, tenure).
- f.** Include any information about the candidate's appointment that could be relevant in evaluating the scholarship (*e.g.*, joint appointments, administrative appointments).
- g.** Request that the evaluator provide a thorough, objective assessment of the scholarship submitted to the evaluator, including the significance of the work produced and its impact on the field.
- h.** Request the letter to be submitted to the Associate Dean by the last day of September.
- i.** Request that the letter not be shared with others.
- j.** Indicate that Texas Tech University School of Law will pay a \$200 honorarium after receiving the letter, and include the appropriate documents to allow us to process that honorarium.
- k.** Alert the evaluator that under the University OP, a faculty member must sign off on his or her dossier; thus, the faculty member is entitled to see the review letters.

§ 11. REVIEWING EVALUATOR LETTERS FOR COMPLIANCE.

When received, the Associate Dean will review the letter to ensure that it contains the requested information. If it does not, the Associate Dean will ask the reviewer to correct any defect and resubmit. The Associate Dean will not ask any evaluator to alter his or her actual evaluation of the scholarship. If the letter does contain the requested information, the Associate Dean will forward the letter to the committee chair for inclusion in the candidate's packet. Under the TTU OP, any letter solicited must be included in the candidate's file.

§ 12. SHARING LETTER WITH CANDIDATE, AND CANDIDATE RESPONSE TO LETTER.

The chair will share the letter with the candidate. The candidate may respond to the review in writing as part of the promotion or tenure package, if he or she desires.

§ 13. ALTERNATE EVALUATORS.

If, at any point, the Associate Dean or chair becomes concerned that an evaluator will not submit a timely review, an alternate evaluator may be used, following the procedures set forth above, but on a timeframe, that provides the review at least three weeks before a faculty vote on the candidate. The chair may pre-designate one or more alternate evaluators when submitting the original list of evaluators to the Associate Dean.

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§ 14. EVALUATION MEETING OF REVIEWING FACULTY.

a. The dean shall call a meeting of all faculty eligible to vote on one or more candidates at least 14 days in advance of the date set by the University Administration for submitting recommendations for promotion to discuss and vote on the promotion of the candidate or candidates under review. At this meeting, the eligible faculty shall consider candidates by:

- (1) Obtaining views of members of each candidate's Promotion Committee;
- (2) Reviewing signed letters to the Dean from any member of the faculty or other qualified persons. The Dean will read any such letters in the meeting and will disclose the name of the writer;
- (3) Examining reports of any student evaluation process; and
- (4) Open discussion.

b. Matters discussed at a meeting regarding candidates for appointment to the faculty will be treated as confidential and not disclosed to persons not present at the meeting, except for faculty members otherwise eligible to vote but who were unable to attend the meeting at which the vote is taken, or when integral to faculty and University formal proceedings and then, no personal identifying information may be used.

c. At the close of the discussion, a secret ballot shall be taken in the case of each candidacy in accordance with the procedures established for voting in § III.6.

§ 15. VOTING.

a. Eligibility. All members of the faculty holding a higher academic rank than the candidate shall be eligible to vote on the issue of a candidate's promotion. Faculty members with appointments which do not acquire tenure shall not be eligible to vote.

b. Quorum. A quorum of eligible voting members of the faculty shall exist if four-fifths of the eligible faculty are present.

Comment

This rule is subject to the general rounding rule stated in § I.1.

c. Absentee or Proxy Voting. Absentee or proxy voting shall not be permitted, but a member of the faculty eligible to vote on promotion shall be deemed present for all purposes if the member participates in the meeting using speaker phone or other technology that allows the member to give and receive information and interact with the other members in real time during the meeting.

d. Faculty Members on Leave. Faculty members on leave shall not be eligible to vote nor counted in the quorum unless they are present at the evaluation meeting.

e. Form of Ballot. The ballot shall provide the choices: “for,” “against,” or “abstain.” An abstention shall be counted for purposes of determining the quorum but shall not be counted as voting or for any other purpose.

f. Order of Balloting. Because it may occur that a person is eligible to vote on another candidate, but is also a candidate for promotion, an order of balloting shall be established which will permit the greatest degree of freedom of expression on the part of each person eligible to vote. Unless otherwise established by a majority vote of those present at the opening of the meeting, the following order of balloting shall be used:

- a. Candidates shall be voted on in the order of their academic rank, highest rank first;
- b. Those persons voted on first shall be excused from the meeting while discussion and voting on their candidacy is conducted and shall be invited to return to the meeting at the conclusion of the balloting for the purpose of discussion and voting on those candidates for whom they are eligible to vote;
- c. If this order of balloting is used, ballots cast on those persons excused from the meeting who have later been invited to return shall not be examined or tabulated until the conclusion of the entire meeting but shall, instead, be placed in suitably identified sealed envelopes until that time.
- d. A member of the eligible voting faculty who participates in the meeting by use of a speaker phone or other technology may designate a member of the faculty, either before or during the meeting, to record his or her vote when a vote is called during the course of the meeting, provided that the designated faculty member is physically present at the meeting. This designation shall be recorded in the minutes of the meeting, but provision must be made to ensure that the vote cast by telephone or by other electronic means is known only to the designated faculty member.

§ 16. RESULTS OF BALLOTING.

Comment

These rules concerning the Results of Balloting are subject to the general rounding rule stated in § 1.1.

a. A candidate must receive an affirmative vote from at least two-thirds of the faculty voting and eligible to vote, and at least a majority of those present to vote, at a meeting at which a quorum is present, to be recommended to the University for promotion. If the Dean disagrees with the recommendation of promotion, the Dean must state the reasons for disagreement to the faculty voting the recommendation before advising the candidate and the University of the recommendation and disagreement.

b. Unless a candidate is in his or her last probationary year, if the candidate does not receive the faculty votes necessary to be recommended for promotion, the faculty may consider the candidate for promotion the following academic year. The candidate shall be notified of the faculty decision.

§ 17. POST-RECOMMENDATION PROCEDURE.

After the faculty has voted under the procedure described above, the Dean shall advise the candidate in writing of the results and to present the results to the appropriate University officials, together with such documentation as may be required. If the Provost, President, or Chancellor disapprove a recommendation for promotion, the Dean shall immediately notify the voting faculty members so that they may contribute their views on the disapproval to the Dean, who shall convey these views to the Provost. The Dean shall immediately notify the candidate and the voting faculty of any action on the promotion recommendation—favorable or unfavorable—by the Provost, President, Chancellor, or Board of Regents.

§ 18. CHAIR, SECRETARY, MINUTES, AND FILES.

The Dean, or in the Dean's absence, the senior member of the tenured faculty in terms of date of appointment at this School of Law, shall chair meetings of the reviewing faculty. A secretary shall be appointed by the chair and minutes of all meetings, reports to candidates resulting from action by the reviewing faculty at meetings, and reports to University officials on the promotion of candidates shall be maintained in the records of the School of Law.

V. AWARD OF FACULTY TENURE.

§ 1. PROBATIONARY APPOINTMENTS AND MAXIMUM PROBATIONARY PERIOD.

a. A reasonable probationary period shall be required of faculty members of any rank before acquiring tenure in the School of Law.

b. The maximum probationary period for admission to tenure is six years and is not affected by promotions made during that period. An untenured assistant, associate, or full professor must be notified in writing before the end of the sixth probationary year either that tenure has been awarded or that appointment will not be renewed at the end of the seventh year.

c. In exceptional instances professors and associate professors may be appointed with tenure. Such appointments shall be made only when the tenured faculty and the faculty as a whole (I.L.H) have approved the appointment. Appointments made that are effective other than at the normal commencement of the academic year shall be deemed to have been made as of the normal commencement of the next academic year for probationary purposes.

§ 2. TIME FOR REVIEW.

a. The usual time for the first evaluation review of a candidate in the School of Law that may lead to a recommendation of an award of tenure is as follows:

- (1)** For faculty who were initially appointed as assistant professors, in the fall term of their fifth year at the School of Law;
- (2)** For faculty who were initially appointed as associate professors, in the fall term of their third year at the School of Law; and
- (3)** For faculty who were initially appointed as professors, in the fall term of their second year at the School of Law.

b. The period of teaching by a candidate at another law school or other appropriate legal experience or periods of teaching at this law school under an appointment which does not acquire tenure may shorten the time period to the first evaluation review by no more than one year only if specified in the original terms of appointment which leads to the admission to tenure. The Dean shall take care that all appointees to the faculty are informed of the substance of this section.

c. A faculty member may be considered earlier than the usual time, but only in extraordinary circumstances with approval by the Dean.

§ 3. DETERMINATION OF ELIGIBILITY FOR REVIEW.

Before April 15 of each year, the Dean shall prepare a list of those faculty members to be reviewed for tenure the following academic year. A candidate shall be reviewed in accordance with the above schedule unless the candidate requests in writing that the consideration be delayed or accelerated. If a request to delay is submitted to the faculty, a review may nevertheless be undertaken if a majority of the faculty eligible to vote on tenure votes to deny the request.

§ 4. PRELIMINARY MEETING OF REVIEWING FACULTY.

If one or more candidates may be reviewed during a fall term, the Dean shall, under normal circumstances, call a meeting before the May hooding ceremony of the prior Spring semester of all faculty who are expected to be eligible to vote on one or more of the promotion questions which will require determination.

a. At the preliminary meeting of the reviewing faculty, the Dean will present the list of candidates to the reviewing faculty for verification

§ 5. APPOINTMENT OF THE TENURE COMMITTEE.

a. After consultation with the reviewing faculty at the preliminary meeting, the Dean shall appoint, within one week following the meeting, a three-member Tenure Committee for each candidate to be reviewed during the fall term and the candidate shall be given an opportunity to object to one or more members of the team before the members are notified of their appointment. Under normal circumstances, the Dean will appoint Tenure Committees by April 15 of the academic year preceding the vote on a candidate's tenure. The Tenure Committee shall be composed of persons eligible to vote on tenure of the candidate. If a candidate is eligible for both promotion and tenure in any academic year, only one team shall be appointed to review the candidate for both promotion and tenure.

b. The Dean and Associate Dean for Academic Affairs will hold a meeting with the chairs of the tenure committees to review the tenure processes, including the procedures for soliciting outside reviews of scholarship.

§ 6. DUTIES OF THE TENURE COMMITTEE.

a. The Tenure Committees shall fully inform themselves about their candidate's qualifications for tenure based upon the criteria listed in § I. Committees may obtain and evaluate information about their candidate's qualifications by: (1) visiting the candidate's classes; (2) reviewing the candidate's scholarship; (3) reviewing the candidate's service to the law school, the University, and the community; (4) examining the candidate's student evaluations; (5) in coordination with the Associate Dean for Academic Affairs, select outside evaluators of the candidate's scholarship as indicated in §§ 7-14; and (6) such other means as may be reasonably related to the inquiry, but the candidate must be advised of any such other means which the team proposes to use. The Committees shall also afford their candidate an opportunity to suggest other means of evaluating the candidate's qualifications for promotion. Candidates must disclose which letters come from reviewers with whom they have a relationship that might raise a potential conflict of interest, such as collaborators, coauthors, former professors, or students. The total number of letters is not restricted.

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On April 20, 2016, the law faculty unanimously approved the Administrative Guidelines for Outside Reviewers in sections 7 through 14. The Administrative Guidelines ensure that tenure and promotion packets submitted to the University for law faculty are consistent with University operating policies and expectations,

and that law faculty candidates have the best possible chance of obtaining approval at the University level. They are designed to address issues that have arisen in the past, to make the process more consistent for all candidates, and to shift some of the administrative burden associated with obtaining outside scholarship reviews.

b. The candidate shall be allowed to see and comment on all material considered by the Tenure Committees and the reviewing faculty. This requirement may be waived by the candidate.

c. The Committees shall conduct their own independent evaluation on behalf of the faculty. The Committees shall prepare a written report on the candidate which shall be submitted to the faculty at least five working days before the evaluation meeting.

§ 7. SELECTING OUTSIDE EVALUATORS.

Selections should be consistent with TTU OP 32.01. The candidate's chair should work with the other Committee members and the candidate to prepare a list of at least six possible outside evaluators. The evaluators should be experts in the substantive area of the scholarship to be reviewed. The evaluators typically should be legal academicians, although in some cases practitioners, judges, and academicians in other areas could be acceptable. The University has expressed concern in the past about non-academicians who do not appear to have a record of producing scholarship. Whenever possible, at least one evaluator should teach at an [AAU school](#), (which are the same schools listed on TTU's list of "aspirational peers"). For other evaluators, the committee might consider those who teach at a school on TTU's "peer institutions" list, or from a school in one of the Big 5 athletic conferences (ACC, Big 10, Big 12, Pac-12, SEC).

a. The candidate may nominate individual evaluators, as may the committee members.

b. The chair will maintain a list of all nominations and who made them.

c. The Committee should share the full list with the candidate, discuss the evaluators with the candidate, and ask for the candidate to disclose, in writing, any current or prior relationship with each possible evaluator. For example: Has the candidate worked for or with the evaluator? Did the candidate attend law school with the evaluator? Was the evaluator one of the candidate's law professors? Does the candidate consider the evaluator a personal friend? Has the candidate served as an evaluator of the proposed evaluator's work?

d. The Committee should conduct preliminary research on each potential evaluator and select at least three, and up to five. As noted in § 14, alternate evaluators may be designated. The chair may consult with the Dean or Associate Dean for Academic Affairs if he or she has questions or concerns about a possible evaluator.

e. The chair or another Committee member should contact each selected evaluator to gauge the individual's desire and availability to serve.

f. Once selected, the candidate should not communicate with an evaluator about the review or specific materials to be reviewed. If a candidate is contacted by an evaluator about the review or specific materials to be reviewed, the candidate should contact his or her chair and disclose the contact.

§ 8. SUBMITTING EVALUATOR NAMES TO THE ASSOCIATE DEAN FOR ACADEMIC AFFAIRS:

No later than July 5, the chair should submit electronically to the Associate Dean for Academic Affairs:

- a. The names, title, and contact information for each evaluator.
- b. Which pieces of scholarship each evaluator will review.
- c. The candidate's written disclosure of any relationship with the selected evaluators.

§ 9. SUBMITTING MATERIALS TO THE ASSOCIATE DEAN FOR ACADEMIC AFFAIRS.

No later than July 5, the Committee or candidate should create and share with the Associate Dean for Academic Affairs electronic versions of all pieces of scholarship to be reviewed (.pdf is usually preferable) and a current copy of the candidate's CV. If a piece of scholarship cannot be placed into the account electronically, the Committee or candidate should provide sufficient copies to the Associate Dean for distribution to the appropriate evaluators. The Associate Dean's office will create a cloud folder for each candidate's materials that can be shared with evaluators. If a faculty member is completing a piece he or she wishes to be considered and cannot meet the July deadline, please note that information and then submit it to the Associate Dean when completed. It may be difficult to obtain timely reviews for any pieces submitted after mid-September.

§ 10. SUBMITTING MATERIALS TO THE EVALUATOR.

No later than July 20, the Associate Dean for Academic Affairs will send a letter containing instructions to each evaluator and also share the "account" or hard-copy materials with the appropriate reviewer.

§ 11. INSTRUCTIONS TO EVALUATORS.

The letter from the Associate Dean to the evaluator should:

- a. Ask the evaluator to spend a paragraph or so describing his or her background and expertise to serve as an evaluator for the candidate.
- b. Request the evaluator to submit a current CV along with the written review.
- c. Request the evaluator to describe if and how he knows the candidate.

d. Provide our standard for promotion or tenure, as appropriate, and ask the evaluator, in a summary paragraph, to indicate whether he or she believes the candidate meets Texas Tech's scholarship standard. The letter will not ask whether the candidate would meet the standard at the evaluator's school.

e. Explicitly state what the faculty member is being considered for (*e.g.*, tenure).

f. Include any information about the candidate's appointment that could be relevant in evaluating the scholarship (*e.g.*, joint appointments, administrative appointments).

g. Request that the evaluator provide a thorough, objective assessment of the scholarship submitted to the evaluator, including the significance of the work produced and its impact on the field.

h. Request the letter to be submitted to the Associate Dean by the last day of September.

i. Request that the letter not be shared with others.

j. Indicate that Texas Tech University School of Law will pay a \$200 honorarium after receiving the letter, and include the appropriate documents to allow us to process that honorarium.

k. Alert the evaluator that under the University OP, a faculty member must sign off on his or her dossier; thus, the faculty member is entitled to see the review letters.

§ 12. REVIEWING EVALUATOR LETTERS FOR COMPLIANCE.

When received, the Associate Dean will review the letter to ensure that it contains the requested information. If it does not, the Associate Dean will ask the reviewer to correct any defect and resubmit. The Associate Dean will not ask any evaluator to alter his or her actual evaluation of the scholarship. If the letter does contain the requested information, the Associate Dean will forward the letter to the committee chair for inclusion in the candidate's packet. Under TTU OP, any letter solicited must be included in the candidate's file.

§ 13. SHARING LETTER WITH CANDIDATE, AND CANDIDATE RESPONSE TO LETTER.

The chair will share the letter with the candidate. The candidate may respond to the review in writing as part of the promotion or tenure package, if he or she desires.

§ 14. ALTERNATE EVALUATORS.

If, at any point, the Associate Dean or chair becomes concerned that an evaluator will not submit a timely review, an alternate evaluator may be used, following the procedures set forth above, but on a time-frame that provides the review at least three weeks before a faculty vote on the candidate. The chair may pre-designate one or more alternate evaluators when submitting the original list of evaluators to the Associate Dean.

§ 15. EVALUATION MEETING OF REVIEWING FACULTY.

a. The Dean shall call a meeting of all faculty eligible to vote on tenure at least 14 days in advance of the date that may be set by the University Administration for the submission of recommendations for tenure to discuss and vote on tenure in regard to each candidate under review. At this meeting, the eligible faculty shall consider candidates by:

- (1) Obtaining views of members of each candidate's review team;
- (2) Reviewing signed letters to the Dean from any qualified person. The Dean will read any such letters in the meeting and will disclose the name of the writer;
- (3) Examining reports of any student evaluation process;
- (4) Open discussion; and
- (5) Written reports by external reviewers of the candidate's publications.

b. Matters discussed at a meeting regarding candidates for appointment to the faculty will be treated as confidential and not disclosed to persons not present at the meeting, except for faculty members otherwise eligible to vote but who were unable to attend the meeting at which the vote is taken, or when integral to faculty and University formal proceedings and then, no personal identifying information may be used.

c. At the close of the discussion, a secret ballot shall be taken on the question or questions presented in the case of each candidacy in accordance with the rules established for voting in § IV.16.

§ 16. VOTING.

a. Eligibility. All tenured faculty of the School of Law shall be eligible to vote on the issue of a candidate's tenure.

b. Quorum. A quorum of eligible voting members of the faculty shall exist if four-fifths of the eligible faculty are present.

Comment

This rule is subject to the general rounding rule stated in § I.1.

c. Absentee or Proxy Voting. Absentee or proxy voting shall not be permitted, but a member of the faculty eligible to vote on tenure shall be deemed present for all purposes if the member participates in the meeting using speaker phone or other technology that allows the member to give and receive information and interact with the other members in real time during the meeting.

d. Faculty Members on Leave. Faculty members on leave shall not be eligible to vote nor counted in the quorum unless they are present at the evaluation meeting.

e. Form of Ballot. The ballot shall provide the following choices: “For,” “Against,” “Defer,” or “Abstain.” Each ballot shall also include space in which the voter is requested to indicate the reason for voting “Against,” or to “Defer,” or “Abstain,” but a failure to so indicate shall not invalidate the ballot. An abstention shall be counted for purposes of determining a quorum but shall not be counted as voting for any other purpose. A defer vote will be used for internal Law School purposes only; reports to the University will indicate that the candidate failed to receive the votes necessary for tenure.

f. Designation of Faculty Member for Proxy Vote. A member of the eligible voting faculty who participates in the meeting by use of a speaker phone or other technology may designate a member of the faculty, either before or during the meeting, to record his or her vote when a vote is called during the course of the meeting, provided that the designated faculty member is physically present at the meeting. This designation shall be recorded in the minutes of the meeting, but provision must be made to ensure that the vote cast by telephone or by other electronic means is known only to the designated faculty member.

§ 17. RESULTS OF BALLOTING.

Comment

These rules concerning the Results of Balloting are subject to the general rounding rule stated in § I.1.

a. A candidate must receive an affirmative vote from at least two-thirds of those voting and eligible to vote, and at least a majority of those present and eligible to vote, at a meeting at which a quorum is present, to be recommended to the University for tenure. If the Dean disagrees with the recommendation of tenure, the Dean must state the reasons for disagreement to the faculty voting the recommendation before advising the candidate and the University of the recommendation and disagreement.

b. A candidate, in the sixth year of his or her probationary period, who does not receive the two-thirds vote and majority vote required to recommend tenure, shall be promptly notified in writing of this fact and shall be extended a terminal contract for the next academic year.

c. Tenure may be awarded before a faculty member completes a full probationary term. A faculty member may request early tenure consideration before completing the full probationary period without prejudice for later reconsideration. For an early tenure bid, the faculty member’s record of accomplishment shall meet the criteria for tenure set forth in paragraph I above. Nothing in this paragraph shall be construed to prevent the Law School from refusing to reappoint or from dismissing a non-tenured faculty member under paragraph 3.b. of Texas Tech University Operating Policy and Procedure 32.02 (July 11, 2012).

§ 18. POST-RECOMMENDATION PROCEDURE.

After the faculty has voted under the procedure described above, the Dean shall advise the candidate in writing of the results and to present the results to the appropriate University officials, together with such documentation as may be required. If the Provost, President, or Chancellor disapprove a recommendation for tenure, the Dean shall immediately notify the voting faculty members so that they may contribute their views on the disapproval to the Dean, who shall convey these views to the Provost. The Dean shall immediately notify the candidate and the voting faculty of any action on the tenure recommendation—favorable or unfavorable—by the Provost, President, Chancellor, or Board of Regents.

§ 19. CHAIR, SECRETARY, MINUTES, AND FILES.

The Dean, or in the Dean's absence, the senior member of the tenured faculty, in terms of date of appointment at this School of Law, shall chair meetings of the reviewing faculty. A secretary shall be appointed by the chair and minutes of all meetings, reports to candidates resulting from action by the reviewing faculty at meetings, and reports to University Officials on the tenure of candidates shall be maintained in the records of the School of Law.