

**Standards and Interpretations on Faculty—Terms & Conditions
July 10, 2011**

For Discussion Only

Alternative 1

Standard 405. PROFESSIONAL ENVIRONMENT

(a) A law school shall establish and maintain conditions that are adequate to attract and retain a competent full-time faculty sufficient to accomplish its mission.

(b) A law school shall have a written policy and procedures that provide protection for the academic freedom of its full time faculty in exercising their teaching responsibilities, including those related to client representation in clinical programs, and in pursuing their research activities, governance responsibilities, and law school related public service activities.

(c) A law school shall have an announced and written comprehensive system for evaluating candidates for promotion, termination, tenure and renewal of contracts or other forms of security of position.

(d) A law school shall have a policy that provides for meaningful participation of all full time faculty members in the governance of the school.

Interpretation 405-1

A system of tenure earning rights can be an effective method of attracting and retaining a competent full time faculty. For full-time faculty positions that do not include the possibility of a tenured appointment, the law school bears the burden of showing that it has established sufficient conditions to attract and retain competent faculty in those positions. In assessing whether the school has met that burden, the following should be considered: evidence of turnover in full time faculty members, history of successful hiring of full time faculty members, evidence of a system that permits full time faculty members in those positions to be appointed with long-term, presumptively renewable contracts, evidence of full-time faculty members ability to participate in governance of the law school, and evidence of other perquisites similar to tenured faculty, such as participation in faculty development and support programs.

Interpretation 405-2

A system of tenure earning rights can be an effective method of protecting faculty members' academic freedom. For full-time faculty positions in the law school that do not carry traditional tenure, the law school bears the burden of establishing that it provides sufficient protection for academic freedom. A school may meet its burden by presenting evidence of its, or its university's, explicit acceptance of the protections

articulated in the 1940 AAUP Statement of Principles on Academic Freedom and Tenure and its 1970 Interpretive Comments and an established procedure involving a representative group of faculty to review the performance of those faculty for appointment, renewal of contracts of appointment, and termination that effectively protects academic freedom involving the faculty, or a subset thereof.

Interpretation 405-3

The law school's written policy with respect to the protection of the academic freedom of its full time faculty members should provide procedures to ensure that its policy is followed, including rules that prohibit the non-renewal, denial of promotion, or loss of a faculty position unless a representative group of law faculty agree that the determination is not a violation of academic freedom and that offer the affected faculty member the opportunity to present any claims to the faculty making that determination.

Interpretation 405-4

Meaningful participation in law school governance includes faculty participation in decisions affecting the mission and direction of the law school, including academic matters such as curriculum, academic standards, and methods of instruction. The law school shall have a written policy on full-time faculty participation in appointment, renewal, promotion and grant of tenure or presumptively renewable contract status of members of the faculty.

Standard 206. DEAN

(c) Except in extraordinary circumstances, a dean shall also hold appointment as a member of the faculty with the rights and protections accorded to other members of the full time faculty under Standard 405.

Standard 603. DIRECTOR OF THE LAW LIBRARY

(d) Except in extraordinary circumstances, a law library director shall hold a law faculty appointment with the rights and protections accorded to other members of the full time faculty under Standard 405.

Alternative 2

Standard 405. PROFESSIONAL ENVIRONMENT

- (a) A law school shall establish and maintain conditions that are adequate to attract and retain a competent full-time faculty sufficient to accomplish its mission.
- (b) A law school shall have a written policy and procedures that provide protection for the academic freedom of its full time faculty in exercising their teaching responsibilities, including those related to client representation in clinical programs, and in pursuing their research activities, governance responsibilities, and law school related public service activities.
- (c) A law school shall afford all full-time faculty members a form of security of position sufficient to ensure academic freedom and meaningful participation in law school governance, and shall have a written comprehensive system for evaluating candidates for all positions for renewal, promotion and termination.
- (d) A law school shall have a policy that provides for the meaningful participation of all full time faculty members in the governance of the school.

Interpretation 405-1

Security of position sufficient to satisfy Standard 405(b) [405(c)] must, at a minimum, provide a program of presumptively renewable long-term contracts that are at least five years in duration after a probationary period reasonably similar to that for tenure-track faculty members. During probationary periods full-time faculty may be employed on short-term contracts.

Interpretation 405-2

The law school's written policy with respect to the protection of the academic freedom of its full time faculty members should provide procedures to ensure that its policy is followed, including rules that prohibit the non-renewal, denial of promotion, or loss of a faculty position unless a representative group of law faculty agree that the determination is not a violation of academic freedom and that offer the affected faculty member the opportunity to present any claims to the faculty, or a subset thereof. A law school may support its compliance with requirement of a written policy for the protection of academic freedom by presenting evidence of its, or its university's, explicit acceptance of the protections of the 1940 AAUP Statement of Principles on Academic Freedom and Tenure and its 1970 Interpretive Comments.

Interpretation 405-3

Meaningful participation in law school governance includes faculty participation in decisions affecting the mission and direction of the law school, including academic matters such as curriculum, academic standards, and methods of instruction. The law school shall have a written policy on full-time faculty participation in appointment,

renewal, promotion and grant of tenure or presumptively renewable contract status of members of the faculty.

Interpretation 405-4

This Standard does not preclude the use of short-term contracts for a limited number of fixed term appointments, so long as they are not restricted to a single class of faculty, nor does it preclude a law school from offering fellowship or visiting assistant professor programs designed to produce candidates for full-time teaching by offering individuals supervised teaching experiences of limited duration.

Standard 206. DEAN

(c) Except in extraordinary circumstances, a dean shall also hold appointment as a member of the faculty with the rights and protections accorded to other members of the full time faculty under Standard 405.

Standard 603. DIRECTOR OF THE LAW LIBRARY

(d) Except in extraordinary circumstances, a law library director shall hold a law faculty appointment with the rights and protections accorded to other members of the full time faculty under Standard 405.