



## **FACULTY BYLAWS**

1. Rank & Tenure Guidelines (pursuant to Memorandum of Understanding approved November 25, 2003)
2. Resolution Creating Departments (effective beginning 2010-2011 academic year)
3. Voting Rights Policy (adopted October 8, 2012)
4. Hiring Voting Policy (adopted October 23, 2013)
5. Proxy Voting Policy (adopted October 23, 2013)
6. Sabbatical Leave Policy (effective September 1994)
7. Law Department Policies for Full-Time Faculty Members (adopted February 26, 2016)
8. Hiring Policies and Procedures; Student Complaint Policy (adopted March 18, 2016)

**MEMORANDUM OF UNDERSTANDING BETWEEN THE CREIGHTON  
UNIVERSITY SCHOOL OF LAW AND THE VICE PRESIDENT  
FOR ACADEMIC AFFAIRS**

Like other units of Creighton University (hereafter “The University”), the Creighton School of Law (hereafter “Law School”) is periodically reinspected and accredited by the appropriate professional accreditation bodies. For law schools, the accrediting bodies are the American Bar Association (hereafter “ABA”) and the Association of American Law Schools (hereafter “AALS”). Those bodies inspected the Law School in the 1974-75 academic year. As part of that inspection, the inspection team initially recommended disaccreditation of the Law School based on the substantial adverse impact of the incompatible operation of the all-University system of promotion, tenure, leave standards, rules, and policies on the Law School. (See Confidential Letter of the Chair of the Inspection Team, Thomas L. Shaffer of Notre Dame Law School, to James White of the American Bar Association, dated June 16, 1975).

The principal problems appear to have been focused on the failure of the University’s statutory provisions to reflect standards specifically tailored to the legal profession and law teaching; the apparent reluctance in the provisions to accept the normal progression of promotion and tenure widely recognized for law school faculty, especially the promotion to the rank of associate professor prior to receiving tenure and the expectation of promotion to the rank of full professor after seven years of service; the refusal to accept and fully credit various traditional forms of legal scholarship (especially law review publications) because these publications are not peer-reviewed; the failure to recognize, value, and fully credit forms of scholarship and public service in which law professors often engage, such as continuing legal education presentations, development of unpublished casebook teaching materials, and pro bono legal activities; the failure of the statutes to recognize the basic structure of organization and operation of the Law School, such as procedures reflecting department chairs and supervisors when that structure does not exist in the Law School; and the practical procedural incompatibilities in the statutes that appear to prevent the submission of changes in faculty status to the tenured faculty of the Law School “for its recommendation in accordance with the recommended procedures of the Association of American Law Schools.”

As a result of consultations with the President of the University, these violations were resolved and reaccreditation was then granted. (Confidential Letter of Thomas L. Shaffer of Notre Dame Law School to James White of the American Bar Association, dated June 16, 1975). As an integral part of this resolution, the President of the University issued the following Statement of Policy:

Effective immediately [May 7, 1975], the Law School is exempted from the statutory provisions for University-wide review of tenure, promotion, leaves, and sabbaticals. Instead, the following procedure will hold: The Dean of the Law School will present his and his faculty’s recommendation to the Academic Vice President, who will in turn present them with his own recommendation to the President. The Academic

Vice President reserves, of course, the right to consult before he decides on his recommendation to the President.

(Presidential Statement of Policy, Appendix B, ABA Accreditation Report, 1975).

As a result of this agreement, the Law School developed a set of “Guidelines for Rank and Tenure” tailored to the prevailing norms and standards in law schools and the legal profession. These Guidelines provided procedures, timetables, and detailed standards that were in many ways similar to the University statutes, but were specifically adapted to the Law School. The substantive standards focused on four principal areas: (1) future promise as a law teacher; (2) demonstrated classroom teaching ability; (3) demonstrated ability in scholarly research and legal writing; and (4) contributions to the University, to the legal profession, and to the community which the University serves. (See, e.g., Law School Rank and Tenure Committee Statement of Policy and Procedure, dated December 10, 1980, approved by the Law School Faculty).

As indicated above, the agreement with the ABA embodied in the Presidential Statement of Policy provided that the Academic Vice President had the “right to consult” before deciding on his recommendation to the President. In 1996, the Academic Vice President exercised the “right to consult” reserved in the Presidential Policy by requesting that the Law School Dean transmit the files of all Law School candidates for promotion and tenure for review by the University Rank and Tenure Committee. This transmittal was made for the purpose of advising the Academic Vice President before making a recommendation to the President, who remains (as everyone agrees) the final decisionmaker.

Pursuant to the Academic Vice President’s request, the Law School voluntarily agreed to transmit the files of candidates to that Committee and to adapt its procedures to more nearly conform with University processes. It was agreed at the time that this change in procedure would not apply to any law school faculty member who was then eligible for promotion or tenure. The Law School accordingly adapted its procedure for future faculty candidates to harmonize them with the University processes.

To this end, the Law School agreed to change its review process from a full review and vote by the entire tenured Law School faculty to an elected seven-member Law School Rank and Tenure Committee which more nearly conforms with the University statutes. The Law School conformed the organization of the candidate’s dossier to the University statutes. The Law School adapted its peer references and reviews of the candidate’s work to conform to University statutes. The Law School formally adopted the process provided in the University statutes for independent review by the Dean (although that was essentially already the procedure in the Law School). In the Spring Semester of 2003, the Law School also undertook a full review, updating, and revision of its standards for promotion and tenure, which were adopted by the Faculty.

As reported in its 2000 accreditation questionnaire by the Dean of the Law School, this integration of the University Rank and Tenure Committee into the rank and tenure process has worked well from the perspective of the Law School. To date, everyone has been in accord. All candidates submitted by the Law School (*i.e.*, two candidates for promotion to Associate Professor of Law and one candidate for promotion to Professor of Law and tenure) have been successful.

The purpose of this Memorandum of Understanding is to memorialize these changes and to set out the procedures, standards, and policies agreed upon by the Vice President for Academic Affairs and the Law School for promotion and tenure of members of the Faculty of Law. The following applies in lieu of Section “G. Promotion and Tenure” of the Handbook for Faculty. All other sections of the Handbook for Faculty are fully applicable to members of the Faculty of Law.

### **G. Promotion and Tenure for Members of the Faculty of Law**

These provisions govern promotion and tenure for faculty members of the School of Law (hereafter “Law School”) at Creighton University (hereafter “The University”). Tenure is understood as the right, subject to the conditions and provisions of Section H of the Handbook for Faculty (dealing with non-reappointment, termination, and dismissal) of a faculty member to automatic renewal of the appointment at the end of its term under conditions at least equal to those which prevailed during the expiring term provided the material conditions of service are the same. A major object of tenure is to protect the faculty from harassment or reprisal within the University community for expression or espousal of unpopular views or principles, and to encourage freedom of inquiry and expression. Its ultimate object is to secure a forum in which academic freedom can be a liberating reality.

The President promotes faculty members in rank and grants tenure based upon the recognition of past academic achievement, the judgment that this achievement will continue in the future, and the determination that the granting of promotion or tenure fits into the plans and goals of the Law School and the University.

#### **1. Probationary Status and Advancement in Rank**

A faculty member without tenure serves in a probationary status and has the same academic freedom as tenured faculty members. The probationary period for Teaching-Research and Clinician-Educator Faculty normally extends through seven years. Because of termination notice requirements, faculty members should recognize that tenure will precede the seventh year.

##### **a. Extension of Probationary Status**

To accommodate the needs of child rearing for some faculty members who are the primary child care providers for their families, the probationary period may be extended by the University (upon request by the faculty member and subject to the University’s discretion to be exercised upon the facts and circumstances of each particular case) for one calendar year for each child born or adopted during the

probationary period. Any such request must be made by the faculty member in writing by not later than one year after the birth of a natural child, or one year after the placement in the faculty member's home of an adopted child.

#### **b. Early Consideration for Tenure**

A tenure decision will ordinarily be made in the sixth year to be effective in the seventh year of the faculty member's service at the Law School. Nevertheless, a faculty member may apply for consideration for tenure before the expiration of the normal probationary period. In such exceptional cases or when the initial appointment includes a contractual provision for early review of tenure, if tenure is denied, the faculty member may be reconsidered for tenure at the end of the normal probationary period.

#### **c. Time Counted toward Tenure**

If the employment date occurs at any time other than the beginning of an academic year (in August), time towards tenure shall not begin until the start of the next full academic year unless otherwise stated in writing. Time spent on leave of absence or in part-time employment shall not be considered a part of the probationary period, unless the faculty member and the University agree in writing to the contrary at the time the leave is granted.

#### **d. Timing of Promotions for Entry-Level Faculty Members**

Entry-level faculty members are normally hired at the rank of Assistant Professor. The expectation is that promotion to Associate Professor will occur in the third year of the faculty member's service at the Law School, to be effective in the fourth year. Promotion to Professor of Law will occur in the sixth year of the faculty member's service, to be effective in the seventh year. Under this pattern, a tenure decision will thus be made in conjunction with the decision to promote to the rank of Professor of Law and will thus be made in the sixth year to be effective in the seventh year of the faculty member's service at the law school.

#### **e. Timing of Promotions for Experienced Faculty Members or Faculty Members Hired a Rank Higher than Assistant Professor**

Faculty members not hired under the entry level pattern may be eligible for promotion and/or tenure at an earlier time. The expected time frame for such candidates should be set forth in their initial employment contract with the University. This time period should reflect the expected additional time needed by the individual in question to produce the evidence required to satisfy both Law School and University requirements for promotion and tenure.

## **2. Administrative Service**

A faculty member who is tenured in the Law School before accepting a full-time administrative position in the University shall continue to hold tenure and the same or higher rank while in that position. If a faculty member was not tenured in the University at the time of accepting a full-time administrative position, the time spent in administration is not normally considered a part of the probationary period. In those cases in which full-time administrators are considered for promotion in rank or tenure, the quality and length of administrative service should be taken into account together with all academic achievement. A non-tenured Law School faculty member in a full-time administrative position at the University shall be entitled to a minimum one year's appointment in the Law School upon completion of the administrative duties, unless the member has been dismissed.

### **3. Special Projects**

Under some conditions (*e.g.*, special projects, sponsored research, etc.), the Law School may hire faculty personnel whose appointment is coterminous with the project and therefore outside the University's tenure policy.

### **4. Law School Committee on Rank and Tenure**

#### **a. Purpose**

The Law School Committee on Rank and Tenure shall be a peer-review committee which shall concern itself with the maintenance and development of faculty competence. It shall review all Law School applications of grants of tenure other than those given at initial appointment and all applications for promotion to the ranks of Associate Professor of Law and Professor of Law. It shall review dossiers presented by the candidates on behalf of the tenured faculty in accordance with the Law School standards for promotion and tenure focusing on scholarship, teaching performance, and service detailed below. After such review, the Committee shall forward the dossiers along with its recommendations to the Dean of the Law School.

#### **b. Membership**

The Law School Committee on Rank and Tenure shall consist of seven members elected from tenured faculty of the Law School. Elections shall be held in the spring, and terms of office shall commence on the first day of the fall semester following. Terms shall be for three years, at staggered intervals.

#### **c. Chair**

The Chair of the Law School Rank and Tenure Committee shall be elected by the Committee at its first meeting following the first day of the fall semester each year. The Chair may designate an Acting Chair for any meeting.

**d. Conflicts of Interest**

Members of the Law School Rank and Tenure Committee may not participate in Committee deliberations or decisions when they have a conflict of interest. In such instances, the vacancy shall be filled by the Dean of the Law School from nominees selected by the Committee.

**e. Confidentiality**

By accepting membership on the Law School Rank and Tenure Committee, each member agrees to keep the Committee deliberations and proceedings confidential. Committee members are also subject to the expectation of confidentiality outlined in section 9.d., below.

**f. Vacancies**

All vacancies shall be filled by the Dean of the Law School from nominees selected by the Committee who shall serve for the period of the vacancy or the remainder of the elected term of the member.

**g. Quorum**

A majority of the members of the Law School Rank and Tenure Committee shall constitute a quorum.

**h. Voting**

All votes on tenure and promotion shall be by secret ballot.

**5. Standards for Law School Promotion and Tenure: Scholarship**

**a. Traditional Scholarship**

Most candidates for promotion and tenure will choose to perform the kind of traditional scholarship generally accepted in law schools in the United States. Traditional scholarship consists of critical articles or books in a medium accessible to academics and other professionals. There shall be no presumption against the scholarship value of co-authored publications.

**(i) Quality of Scholarship**

The Law School follows the tradition of most law schools in the United States in making rank and tenure decisions by weighing high quality scholarship more heavily than a larger quantity of publications of lesser depth or scope. For advancement from assistant professor to associate

professor, a candidate will be expected to publish at least one significant scholarly article. Similarly, for advancement from associate professor to full professor with tenure, a candidate will be expected to publish at least one additional significant scholarly article since the last advancement in rank. We ordinarily expect a total of at least three significant scholarly articles before promotion with tenure. Publications before hiring may be considered in assessing the candidate's scholarship.

A standard of at least three significant articles for tenure has been adopted for several reasons. An exhortation that more articles are required might substantially alter the kind of work that a candidate would do. However, it is likely that such articles would be shallower, less innovative, and less likely to enhance the future growth of the candidate. The objective is to encourage candidates to achieve a proper balance between the quantity and quality of their scholarly work. Scholarship should demonstrate a pattern of continuing professional development and growth that is expected to continue beyond the grant of tenure.

### **(ii) Quantity of Scholarship**

There may be circumstances in which a candidate may choose to publish two or three less in-depth articles as an alternative to each significant article otherwise considered necessary for promotion and tenure. While this choice of quantity over depth may be appropriate in certain cases, the Law School maintains a preference for quality, in-depth scholarship over quantity. In any event, a candidate should complete at least one significant article before promotion with tenure.

### **b. Other Types of Scholarship**

A candidate may adopt alternative paths to traditional scholarship and still successfully achieve promotion and tenure. For example, field and empirical research, together with interpretation and analysis of the data and materials developed, although less common in legal scholarship, may be appropriate in certain circumstances. Alternatively, a candidate may distinguish himself or herself through constructive change in the law by legislative, judicial, or executive-administrative means. Such pluralistic approaches to scholarship defy specific categorization and will be evaluated on a case-by-case basis.

### **c. Method for Evaluating Scholarship**

A candidate's scholarship shall be evaluated by one or more of the following: a faculty colleague with special knowledge, the law school tenure committee, and/or all tenured faculty members considering the rank or tenure decision. Additionally, the Law School requires an independent evaluation of a candidate's scholarly work by at least two outside evaluators, only one of whom shall be recommended by the candidate. The Law School Rank and Tenure Committee may appoint up to three outside peer reviewers. (This use of outside evaluators reconciles, in part, the differences between traditional law school scholarship and the practice in the general university of publication in peer-reviewed journals. By seeking out reputable "peer reviewers" to scrutinize previously published

work, law school scholarship may be “translated” into an evaluation medium more familiar university wide.)

## **6. Standards for Law School Promotion and Tenure: Teaching Performance**

### **a. Teaching Load**

Unless another arrangement is negotiated with the Dean of the Law School, faculty employed in a full-time, tenure track position in the law school are expected to carry a full teaching load and carry out associated duties, which include responsibilities outside the classroom. Six hours per semester is considered a full teaching load in the law school. It is customary for first-year teachers without previous law school teaching experience to be assigned fewer than six hours in light of the substantial preparation efforts required in teaching a course for the first time. If a faculty member is assigned to teach two sections of the same course, the second preparation is ordinarily considered as one-half the hours otherwise assigned for purposes of measuring teaching load.

### **b. Teaching Competency**

Teaching competency in the classroom will ordinarily be exhibited by an effective teaching methodology that engages students in learning and holds students accountable for preparation of assigned materials. Although a range of acceptable teaching styles exists, effective teaching is an interactive, dynamic enterprise. Classroom activities should be aimed at developing fundamental lawyering skills (*e.g.*, problem solving, legal analysis and reasoning, legal research, fact investigation, oral and written communication, counseling, negotiation, litigation, and alternative dispute-resolution procedures, as well as recognizing and resolving ethical dilemmas) and other fundamental values of the profession. The ultimate goal of the classroom teacher is to instill in students the art of exercising professional judgment -- the product of trained familiarity with the law, a disciplined, analytical approach to legal problems, and a firm ethical commitment.

Teaching competency also requires careful attention to the design and implementation of examinations and other methods for evaluating student progress. An effective examination should provide opportunities for students to demonstrate competency in addressing current and anticipated legal problems encompassed by the subject matter of a course. Effective examinations should reflect changes and developments in legal standards that are expected to occur over time in a well-designed course. Courses using research papers as an evaluation method should provide adequate guidance as to the expected requirements for content and format. Faculty consultation with students about their research methods and progress in organizing and developing a research paper (*e.g.*, reviewing outlines or interim drafts) would ordinarily be expected. Courses based on skills evaluation should provide adequate guidance as to the expected skill set to be developed and the standards for measuring student progress. Skill courses should also provide opportunities for feedback that facilitates student progress in the development of professional skills.

### **c. Duties Outside the Classroom**

Outside the classroom, the ordinary duties associated with being a full-time, tenure-track teacher include: availability and willingness to consult with students on an informal basis; willingness to supervise students in independent research projects; willingness to participate in co-curricular activities of an academic nature (judging competitions; assisting law review writers and editors, etc.).

We affirm the value of *cura personalis* and expect faculty seeking tenure to reflect that value in fulfilling their teaching duties.

### **d. Evaluation of Teaching Effectiveness**

Peer review by the mentor committee of an untenured faculty member, the Dean, and by other tenured faculty members should be given significant weight in evaluating teaching effectiveness in the classroom. Student evaluations will also be considered.

## **7. Standards for Law School Promotion and Tenure: Service**

### **a. General Standards**

All faculty are expected to be involved in service to the university, the law school, the profession, and the community. The exact mixture of the service activities will and should vary among candidates based upon their individual interests and talents. The progression from Associate Professor to Professor of Law with tenure will typically require that the faculty member assume leadership roles and responsibilities on various university and law school committees and/or within professional and community organizations. In some instances, service activities may also constitute scholarship, depending upon the audience. Because a particular activity may only be categorized once for purposes of promotion and tenure, it is the candidate's responsibility to select the appropriate category and provide sufficient justification for that selection.

### **b. Illustrative Service Activities**

The following non-exhaustive list of activities is presented as guidance for measuring progress toward promotion and tenure: (1) service on all-university committees; (2) service on law school committees; (3) participation in activities, service on committees, or acting as an officer or leader of professional organizations at the local, state, regional, national, or international level; (4) providing professional continuing legal education at the local, state, regional, national, or international level; (5) service to local, state, or national bar associations; (6) service as an advisor to individual students, moot court teams, or student organizations; (7) service as a judge on law school competitions; (8) making community presentations, whether in the form of live speeches, radio broadcasts, television interviews, newspaper articles, media interviews, or the like; and (9) active service to the community, such as board or committee work in community organizations, arts organizations, social service organizations, educational institutions, and religious organizations.

## **8. Procedures**

### **a. Initiation**

Review for promotion in rank or the granting of tenure may be initiated in any of the following manners: (1) the Dean may notify the faculty member and request that the Law School Rank and Tenure Committee undertake the appropriate review; (2) the faculty member may submit a request to the Dean to initiate review by the Law School Rank and Tenure Committee; or (3) the faculty member may submit a request directly to the Law School Rank and Tenure Committee to undertake the appropriate review.

### **b. Dossier**

The candidate shall assemble two copies of a dossier which shall include the following:

#### **i. Curriculum Vitae**

- A) Name
- B) School
- C) Date and Rank of First Appointment
- D) Secondary Appointment(s) (if any)
- E) Years Granted Toward Tenure at Time of Employment
- F) Current Rank
- G) Date of Current Rank
- H) Date of Tenure (if held)
- I) Proposed Action:
  - 1) Conferral of tenure, and/or
  - 2) Rank of proposed promotion
- J) Years of Academic Service

**K) Schools Attended: Dates**

**L) Degrees Earned: Fields, Dates**

**M) Special Training Programs: Fields, Dates**

**N) Field(s) of Interest**

**1) Teaching**

**2) Research**

**O) Professional Employment: Type, Entity, Dates**

**P) Consultantships and Professional Services: Entity, Dates**

**Q) Organizations: Membership, Offices Held, Dates**

**R) Fellowships, Honors, Awards, or Prizes: Dates**

**S) Grants: Dates, Amounts, Level of Participation**

**T) Scholarship**

**1) Publications with complete citations: Most recent first**

**2) Scholarly Presentations: Most recent first**

**3) Other Scholarly Achievements or Non-Scholarly Publications or Presentations with complete citation that the Candidate Deems Relevant**

**U) Teaching**

**1) Classes Taught: by semester including credit hours and number of students enrolled**

**2) Other contributions to the area of teaching**

**V) Service to the Law School, the University, the Profession, and/or the Community: Activity, Dates**

**W) Other Materials or Information Deemed Relevant by the Candidate**

**ii. Names of at Least Six Peer References (with applicable reports)**

**iii. Names of At Least Six Student References**

**iv. Copies of Student Evaluation Summaries**

**v. Copies of Publications and Other Relevant Materials**

**9. Review Process**

**a. Law School Rank & Tenure Committee**

The Law School Rank and Tenure Committee is responsible for preparing a report to the Dean which contains that Committee's evaluation of the candidate's teaching, research, and service and its recommendation with regard to promotion and/or tenure. In making its report and recommendation, the Committee is expected to review the candidate's dossier, including any letters or written reports from peer reviewers and any other relevant information submitted by or on behalf of the candidate, in light of the aforementioned standards for teaching, research, and service. Such review is deemed sufficient to certify that the materials in the dossier are complete and appropriate for consideration. The Committee may also consult the mentoring committee assigned to the candidate as well as other faculty members whom the Committee believes may possess relevant expertise to assist the Committee in evaluating the candidate's qualifications. This report need not be unanimous; majority and minority views may be stated along with the Committee's recommendation.

**b. Dean of the Law School**

After receiving the report and recommendation of the Law School Rank and Tenure Committee and reviewing the candidate's dossier, the Dean of the Law School shall forward the dossier and the Committee's report and recommendation, together with such evaluation and recommendations of his or her own as the Dean considers appropriate, to the University Rank and Tenure Committee. The Dean shall also deliver a copy of his or her evaluation and recommendation to the Law School Rank and Tenure Committee.

**c. The University Rank and Tenure Committee**

After receiving the candidate's dossier, the report and recommendation of the Law School Rank and Tenure Committee, and the recommendation of the Dean of the Law School, the University Rank and Tenure Committee shall review them for the purpose of determining whether the Law School has acted in good faith and to determine that the Law School has not misapplied its standards in an

arbitrary or capricious manner. The University Rank and Tenure Committee shall then forward these materials and its recommendation to the President in accordance with the University Statutes.

#### **d. Confidentiality**

The Dean and the Law School Rank and Tenure Committee, together with such other members of the University who may have access to materials concerning the candidate's application for promotion and/or tenure, shall treat the information submitted to them as confidential, subject to disclosure only in connection with the decisionmaking process outlined above, or as otherwise legally required.

#### **e. Final Decision**

After reviewing the pertinent material and recommendations, the President of the University will make the final decision.

### **10. Review Timetable**

#### **a. Normal Timetable**

The rank and tenure process shall normally operate according to the following annual timetable:

**September 30:** Deadline for initiation of the promotion and/or tenure process for those persons to be considered for promotion and/or tenure in the current year.

**October 31:** Deadline for completion of dossiers and submission to the Dean and/or Law School Rank and Tenure Committee.

**December 10:** Deadline for completion of reviews by the Law School Rank and Tenure Committee.

**January 10:** Deadline for submission by the Dean of the Law School of all material to the University Rank and Tenure Committee.

**March 1:** Deadline for submission of recommendations by the University Rank and Tenure Committee to the University President.

**March 31:** Announcement by the President of all promotions and grants of tenure. Notification of all denials.

#### **b. Exceptional Timetable**

Under unusual circumstances, promotion and tenure decisions according to these procedures can be made at other than regularly scheduled times.

## **Resolution to Create Departments within the School of Law**

Pursuant to Article II, Section IB of the University Statutes, Creighton University School of Law hereby creates the separate departments of 1) Law and 2) Negotiation and Dispute Resolution.

**Law Department:** The Law Department shall consist of all faculty holding voting privileges who teach exclusively or primarily in the J.D. program as well as any faculty from the Negotiation and Dispute Resolution Department holding secondary appointments in the Law Department. Law Department meetings shall be presided over by the Dean of the Law School. The Law Department shall have vested in it all the powers now vested in the voting law faculty over matters related to the law school.

**Chair of the Law Department:** The Dean shall serve as the Chair of the Law Department for rank and tenure purposes and his or her letter shall serve both as the Chair's letter and the Dean's letter with regard to candidates for promotion and tenure within the Law Department.

**Negotiation and Dispute Resolution Department:** The Negotiation and Dispute Resolution Department shall consist of all faculty who teach exclusively or primarily in the Werner Institute as well as any faculty from the Law Department holding secondary appointments in the Negotiation and Dispute Resolution Department. The Negotiation and Dispute Resolution Department meetings shall be presided over by the Director of the Werner Institute. The Negotiation and Dispute Resolution Department shall have vested in it all powers now vested in the faculty of the Werner Institute over matters related to the Institute.

**Chair of the Negotiation and Dispute Resolution Department:** The Chair of the Negotiation and Dispute Resolution Department shall be the Director of the Werner Institute. In addition to the powers customarily held by the Director, he or she shall also have the duty and responsibility of writing the Chair's letter with regard to promotion and tenure applications of candidates holding their primary appointment in the Negotiation and Dispute Resolution Department. This letter shall be prepared before the Law School Rank and Tenure Committee commences its evaluation of the candidates and shall be available to the Law School Rank and Tenure Committee as part of the dossier of each candidate from the Negotiation and Dispute Resolution Department. As a consequence of the Director of the Werner Institute's role as Chair of the Negotiation and Dispute Resolution Department, he or she shall not be eligible for election to the Law School's Rank and Tenure Committee.

**Meetings of the faculty of both Departments:** In the event that a meeting of the faculty of both departments is necessary, the Dean shall preside.

**Law School Rank and Tenure Process:** Candidates for promotion and tenure from either department shall be subject to the process and rules sets forth in the Creighton University Handbook as modified by the Memorandum of Understanding applicable to the Law School. The Law School's Rank and Tenure Committee shall therefore evaluate candidates from both departments. Any year in which a candidate who has a primary appointment in the Negotiation and Dispute Resolution Department applies for promotion in rank or tenure, there shall be at least two members of the Rank and Tenure Committee who have primary or secondary

appointments in the Negotiation and Dispute Resolution Department. If there are not already two such members on the Committee, two additional such members shall be added to the Committee. Members added to the Committee under this paragraph shall serve a one-year term. Members added to the Committee under this paragraph who do not hold a primary appointment in the Law School may vote only on rank and tenure decisions for candidates who have a primary appointment in the Negotiation and Dispute Resolution Department.

**Secondary Appointments:** The Director of the Werner Institute shall hold a secondary appointment within the Law Department. Secondary appointments of other faculty members shall be made by the Dean in consultation with the faculty member and in the case of secondary appointments to the Negotiation and Dispute Resolution Department also in consultation with the Director of the Werner Institute.

**Credit towards tenure and promotion:** In the case of new hires, any credit towards promotion and tenure in either department shall be set forth in their contract upon hire. In the case of faculty currently within the Negotiation and Dispute Resolution Department, appropriate credit towards tenure shall be determined by the Dean in consultation with the Law School's Rank and Tenure Committee.

**Effective Date:** This resolution shall be effective beginning in Academic Year 2010-11.

TO: FACULTY  
FROM: A & F COMMITTEE  
DATE: OCTOBER 31, 2012  
RE: LAW SCHOOL VOTING RIGHTS

The Administration and Finance Committee proposes the faculty adopt the following uniform faculty voting rights policy. This policy shall take effect immediately and shall apply prospectively from the date of adoption; however, individuals who have previously received voting rights not in accordance with this policy shall continue to enjoy the same voting rights they possessed prior to the adoption of this policy.

### **FACULTY VOTING RIGHTS POLICY**

**A. The following persons are entitled to vote at faculty meetings on all matters, including faculty appointments, selection of the Dean, election of faculty committees, faculty voting rights and policies, and votes of no-confidence:**

1. All tenured or tenure-track persons who are “Assistant,” “Associate,” or “Full” Professors of Law and who have been offered their positions by vote of the faculty;
2. The Director of a Creighton Legal Clinic if the faculty has concurred by vote in the conferral of the title of “Assistant,” “Associate,” or “Full” Professor of Law;
3. The Director of the Law Library if the faculty has concurred by vote in the conferral of the title of “Assistant,” “Associate,” or “Full” Professor of Law;
4. The Director of the Werner Institute for Negotiation and Dispute Resolution if the faculty has concurred by vote in the conferral of the title of “Assistant,” “Associate,” or “Full” Professor of Law; and
5. All persons who hold a joint appointment in another department of the University and the Law School to teach law students in the Law School if the faculty has concurred by vote in the conferral of the title of “Assistant,” “Associate,” or “Full” Professor of Law.

**B. The following persons are entitled to vote at faculty meetings on all matters, except faculty appointments, rank and tenure, selection of the Dean, election of faculty committees, faculty voting rights and policies, and votes of no-confidence:**

1. All tenured or tenure-track persons who are “Assistant,” “Associate,” or “Full” Professors of Law in the School of Law but who have not been offered their positions by vote of the faculty;
2. (a) All long-term, full-time contract persons (as defined by American Bar Association Accreditation Standards 402(b), 405(c), (d) and their interpretations) who have significant law school teaching or clinical duties, (b) all legal research/writing professors

Approved by the Faculty on 10/08/12

who have long-term contracts and significant law school teaching or clinical duties but do not otherwise qualify under American Bar Association Standards as long-term, full-time contract persons, and (c) all full-time lawyer librarians who have significant law school teaching or clinical duties; provided, however, that legal research/writing professors in categories (a) and (b) above and lawyer librarians in category (c) above shall not be entitled to vote on curriculum matters pertaining to Legal Research and Writing;

3. Any interim or acting director of the Law Library, a Legal Clinic, or the Werner Institute; and
4. All persons who actively continue on the faculty after retirement as Deans Emeriti or Professors Emeriti, provided that the faculty consents to their having a vote at the time of their retirement. The faculty may revoke their consent at any time.

**C. The following persons are entitled to attend and participate in faculty meetings but are not entitled to vote on any matter.**

1. All persons who do not already have voting rights under sections A or B above but who hold administrative appointments as Associate or Assistant Deans;
2. All persons who are Visiting Professors;
3. All tenured or tenure-track persons on another faculty within the University who hold a joint appointment to teach law students in the Law School but as to whom the faculty has not concurred by vote in the conferral of the title of "Assistant," "Associate," or "Full" Professor of Law;
4. The President of the Student Bar Association (or his or her designee), except on personnel and confidential matters (as interpreted by the Dean of the Law School); and
5. The Dean's secretary (whose role is to take minutes of the meeting).

**D. The voting faculty members with voting rights regarding a matter under discussion may elect to enter executive discussion at any time at which time all non-voting participants may be asked to leave the meeting.**

**E. Administrative appointees (including persons designated as members of the Faculty of Law) shall not hold voting rights unless the appointment satisfies one or more of the requirements set out in the foregoing sections.**

## HIRING VOTING POLICY

The Administration and Finance Committee proposes the faculty adopt the following faculty/decanal hiring vote policy.

Subject to the limitations on voting by proxy, all eligible individuals as specified in the Faculty Voting Rights Policy may vote on faculty/decanal hiring and/or appointments.

For faculty hiring/appointments the following voting procedure shall be used after discussion is concluded:

1. In a secret ballot, each voter shall indicate “Yes” or “No” as to whether each candidate is acceptable.
2. For all candidates that received a majority of “Yes” votes in the first round, each voter shall rank every remaining candidate in order of preference by secret ballot from 1-X with “1” being the first preference, “2” the second preference, etc. The candidates shall then be sorted using weighted voting according to the ranking given. After tabulating the votes, the candidate that receives the lowest numerical score will be the group’s first preference. If a ballot fails to rank every remaining candidate, that ballot shall not be counted.
3. Following the ranking the voters shall decide, by secret ballot, whether to authorize an offer to the candidate who is the group’s first preference. The decision must be approved by a 2/3 majority.
4. If the vote results in the authorization of an offer, the voters shall then decide whether to authorize an offer to the second choice individual in the event the first offer is declined. If the vote in step 3 fails to result in the authorization of an offer, the Dean may call for a vote on the group’s second choice following the same procedure as identified in step 3 above.
5. If the voting fails to result in the authorization of an offer, the matter shall be referred back to the Faculty Appointments Committee.

For decanal hiring the following voting procedure shall be used after discussion is concluded:

1. In a secret ballot, each voter shall indicate “Yes” or “No” as to whether each candidate is acceptable.
2. If more than one individual has received a majority of “Yes” votes, each voter shall rank every remaining candidate in order of preference by secret ballot from 1-X with “1” being the first preference, “2” the second preference, etc. The candidates shall then be sorted using weighted voting according to the ranking given. After tabulating the votes, the candidate that receives the lowest numerical score will be the group’s first preference. If a ballot fails to rank every remaining candidate, that ballot shall not be counted.

3. The faculty shall then make recommendations to the Law Dean Search Committee in accordance with the votes on acceptability and ranking.

Faculty members who have not meaningfully evaluated candidates for faculty or decanal positions are encouraged to abstain from voting.

Approved by the faculty: 10/23/13

## LAW SCHOOL PROXY VOTING RIGHTS

The Administration and Finance Committee proposes the faculty adopt the following faculty proxy voting rights policy.

Subject to the restrictions expressed in this policy, voting by proxy is permitted on all matters except hiring. Faculty members absent during a hiring vote may participate in the vote telephonically or by other means that allow for synchronous communication. Faculty members away from the law school on sabbatical or visiting away from Creighton may not vote on any matter.

Individuals desiring to vote by proxy must provide notice by email to the Dean no later than one hour prior to the start of the faculty meeting with the name of the individual to whom they have granted their proxy and whether the proxy is limited. If the proxy is limited, the grantor should designate the limitations. An individual may hold the proxy of only one faculty member at any given faculty meeting.

Approved by the faculty: 10/23/13



## CREIGHTON UNIVERSITY

School of Law  
Office of the Dean

### LAW SCHOOL ~~SABBATICAL~~ LEAVE

#### NATURE AND PURPOSE OF PROGRAM

The sabbatical leave program for faculty of the Law School is intended to promote scholarly activity that will normally lead to publication. To be eligible for a sabbatical, a faculty member must be tenured, and have completed six years of full-time service since his or her last sabbatical, if any. A tenured faculty member may receive financial support from the Law School equal to full salary for one semester, plus a summer stipend for an amount to be determined by the Dean. In addition, the Law School will continue to contribute a full share to his or her fringe benefits package.

The usual sabbatical period will include one semester and the adjacent summer. Thus, one might start a sabbatical in the summer and include the fall semester, or start a leave in the spring semester and conclude it at the end of the summer. However, upon application and the satisfaction of certain conditions, one may be able to extend the sabbatical over a full year. In that event, however, the total financial support from the Law School would still only equal that of the usual sabbatical, i.e. - one half annual salary. While on sabbatical the faculty member is on official leave from all regular classroom, departmental, and institutional duties.

Funded sabbatical leaves will be available only to faculty members who have demonstrated the ability and inclination to carry out substantial scholarly research. The most probative indication of both inclination and ability is a well established record of scholarly productivity.

Funded sabbatical leaves are not available as a matter of right. They are available at the discretion of the Dean after consultation with the Administration and Finance Committee. In particular, they may be limited to assure adequate staffing for the curriculum. Like other discretionary resources of the School, research leaves may be denied to those who do not fulfill obligations at the School beyond research and writing.

The recipient of a sabbatical leave assumes certain obligations, such as assisting the Law School in covering any part of the teaching load as well as providing for the transfer of service duties to colleagues in the Law School. During the leave period,

the faculty member will devote full-time effort to the sabbatical project. The faculty member must submit a written report on the sabbatical leave to the Dean within six weeks of its conclusion. The report should summarize the faculty member's activities during sabbatical leave and explain the progress he or she has made toward the goals established in the proposal. When faculty member accepts the benefits of a sabbatical leave, he or she assumes the obligation to return to full-time teaching at Creighton for at least one year.

#### APPLICATION PROCESS

In the fall of each year, the Dean will send a reminder to the faculty regarding the sabbatical leave policy. To apply, a faculty member must then submit a narrative application to the Dean no later than October 1, for a sabbatical leave in the following academic year. This application should indicate the length of time of the leave. The application should include a clear and reasonably detailed description of the proposed project.

The Dean and Administration and Finance Committee application review may include consultation with the applicant. The Dean and Administration and Finance Committee may approve the proposal as submitted, approve with suggestions for improvement, or return the proposal to the applicant for revision and resubmission. They may take into account any hardship such leave would place on the School as a whole, and extend invitations equitably among the entire faculty.

When the review process is complete, the Dean will formally announce the names of all who have been awarded sabbaticals.

# MEMORANDUM

TO: FACULTY

FROM: A & F COMMITTEE

DATE: February 3, 2016

RE: Adoption and Publication of Law Department Policies for Full-Time Faculty Members

ABA Accreditation Standards require law schools to adopt, publish, and adhere to written policies with respect to full-time faculty members in various areas. In anticipation of complying with this requirement, the Administration and Finance Committee proposes that the faculty formalize those policies by adopting the following. These policies apply only to full-time law faculty in the Law Department of the School of Law. The policies do not apply to lawyer-librarian law faculty members, who have substantial non-teaching responsibilities, or full-time faculty members with primary teaching responsibilities in the Werner Institute. Some of the following incorporate current policies approved by the faculty (e.g., sabbatical policy approved in 1994), others from ABA Standards (e.g., core responsibilities of the faculty) while others formally articulate matters currently covered by varying, informal, customary practices (e.g., submission of annual faculty reports).

**A. Core Responsibilities of the Faculty.** The full-time faculty shall collectively contribute to fulfilling the following core responsibilities:

- (1) Teaching, preparing for classes, being available for student consultation about those classes, assessing student performance in those classes, and remaining current in the subjects being taught;
- (2) Engaging in scholarship, as defined by the Law School's Rank and Tenure standards;
- (3) Participating in academic advising, creating an atmosphere in which students and faculty may voice opinions and exchange ideas, and assessing student learning at the law school;
- (4) Service to the law school and university community, including participation in the governance of the law school, curriculum development, and other institutional responsibilities;
- (5) Service to the profession, including working with judges and practicing lawyers to improve the profession; and
- (6) Service to the public, including participation in pro bono activities.

**B. Annual Faculty Reports.** The full-time faculty shall annually submit to the Dean an Annual Report covering contributions and achievements in teaching, scholarship, service, and other duties from March 1 of the previous year through the end of February of the current year. The Annual Report should also include the number of students enrolled in each class that a faculty member taught during the academic terms covered by the Report.

**C. Teaching Loads and Release Time.** The following are the general policies on teaching loads and release time.

- (1) The normal, expected teaching load for full-time faculty members is two courses per semester, totaling eleven to twelve hours over the academic year (August-May).
- (2) The Dean and a faculty member may mutually agree that a faculty member will teach up to one additional class per semester in exchange for additional compensation or a reallocation of a faculty member's other responsibilities, such as conducting and publishing research, provided other faculty members are collectively fulfilling those responsibilities.

Approved 2/26/2016

(3) The Dean will normally assign faculty members to teach a full load of courses, as defined in (1) above, to staff the courses needed to be taught in the curriculum. In limited circumstance, however, the Dean may release a faculty member from teaching one course of the faculty member's normal, expected teaching load for one semester of an academic year in order to permit a faculty member to pursue research, projects, or other duties, provided all curricular needs can otherwise be met. Such a release should normally be without a reduction in compensation or benefits. The faculty member is obligated to continue to be in residence and perform all other duties, such as coaching teams, committee work, advising, etc.

(4) The Dean and a faculty member may agree to release time of two courses of the faculty member's normal, expected teaching load during an academic year, either in one semester or over the course of two semesters. That reduction will normally be with a proportional reduction in the faculty member's salary. For example, assume that the Dean and a faculty member mutually agree that the faculty member is to be given release time of one course each semester during the academic year or release time of two courses in one semester. Such a reduction would constitute a 50% reduction in the faculty member's normal, expected annual teaching load; and in absence of special circumstances, the faculty member's salary would ordinarily be reduced by 50%. The faculty member is obligated to continue to perform all other duties, such as coaching teams, committee work, advising, etc. if the faculty member is in residence. The faculty member will return to a full-time teaching load and full performance of faculty responsibilities at the end of the release time granted in any academic year.

**D. Leave of Absence.** The Dean may grant a leave of absence for a faculty member to visit at another law school, to serve as a professor in residence elsewhere, or other purposes. Unless agreed otherwise, the leave of absence shall be without compensation or benefits (unless reimbursed by the hosting institution) provided by Creighton University.

**E. Sabbaticals.** [Same as posted policy]

# **Creighton University School of Law Hiring Policies and Procedures; Student Complaint Policy**

## **I. Law School Hiring Policies and Procedures**

### **A. Law School Equal Employment Opportunity and Affirmative Action Policy**

Creighton Law School follows the employment standards and affirmative action policy adopted by Creighton University, as periodically updated and published in Creighton University Policy 2.2.1.

### **B. Law School Procedures for the Hiring of Full-Time Faculty, Adjunct Faculty, and Staff**

1. The hiring announcement should be drafted to attract a large pool of applicants.
2. The University's current EEO statement should be prominently displayed in all postings, advertisements, and communications.
3. The advertising should be designed and placed in such a way as to reach a broad audience, including ones that will reach underrepresented groups.
4. Formal and informal networks should be used to connect with potential applicants, such as consulting with colleagues, interfacing with potential hires at conferences, and using listserv and other online resources.
5. If a search committee is used, one of the members of the committee should be appointed as a facilitator to help ensure that the search is consistent with best practices in faculty search and hiring and that it gives due consideration to all candidates.
6. When a search firm is used, the firm should be required to try to develop as diverse a pool of qualified applicants as possible and to have the firm report on its efforts in this regard.
7. In deciding whom to interview, both traditional and nontraditional indicators of success should be considered.
8. Applicants should be treated equitably in the screening and interview process. To the extent possible, the same questions and format for applicant interviews should be used. A welcoming, friendly environment for all applicants should be established.
9. As part of this process, the search committee is encouraged to consult and follow (to the extent that it is applicable to a law school search) the Creighton University "Faculty Search Committee Toolkit" available on the HR intranet as part of the "Manager's Toolkit."

## **II. Student Complaint Policy**

As an ABA-accredited law school, the Creighton University School of Law is subject to the ABA Standards for Approval of Law Schools. The ABA Standards may be found on the ABA website. Any student at the law school who wishes to bring a formal complaint to the administration of the law school of a significant problem that directly implicates the school's program of legal education and its compliance with the ABA Standards should do the following:

1. Submit the complaint in writing to the dean of the law school or the associate dean for Academic Affairs. The writing may be sent by email, hand delivered, or by U.S. mail, to the Dean's Office.

2. The writing should describe in detail the behavior, program, process, or other matter that is the subject of the complaint, and should explain how the matter implicates the law school's program of legal education and its compliance with the ABA Standards.

3. The writing must provide the name, official law school email address, and a street address of the complaining student, for further communication about the complaint.

4. The dean or associate dean for Academic Affairs will acknowledge the complaint within three business days of receipt of the written complaint. Acknowledgment may be made by email, U.S. mail, or by personal delivery at the option of the dean or associate dean.

5. Within two weeks after acknowledgment of the complaint, the associate dean for Academic Affairs shall either meet with or respond in writing to the complaining student. In this meeting or writing, the associate dean shall provide a substantive response to the complaint, information about steps taken by the law school to address the complaint or a statement that further investigation is needed. If further investigation is needed, then within two weeks after completion of that investigation, the associate dean shall provide the complaining student either a substantive response to the complaint or information about steps taken by the law school to address the complaint.

6. The associate dean's decision may be appealed to the dean, provided that the complaining student gives notice to the dean within 10 days after being advised of the associate dean's decision on the complaint. The appeal must be in writing and addressed to the dean. The dean's decision on the appeal shall be final.

7. A copy of the complaint and appeal, if any, plus a summary of the process and resolution of the complaint shall be kept in the office of the dean for a period of eight years from the date of final resolution of the complaint.