BY-LAWS OF THE FACULTY OF LAW
Case Western Reserve University[1]

ARTICLE 1: PURPOSE

1.1 These By-Laws, and all amendments adopted as hereafter provided, shall constitute the rules governing the procedures of the Faculty of Law in the performance of its duties and powers specified in and authorized by the By-Laws of the Board of Trustees, the Constitution of the University Faculty, and the University Faculty Handbook.

ARTICLE 2: THE FUNCTIONS OF THE FACULTY

2.1 Introduction. The Faculty has primary responsibility for the selection of those individuals who constitute the tenured, tenure track, and non-tenure track Faculty. The Faculty and the Administration have joint responsibility for implementation of plans for the law school.[2] Since operations by the Administration may require modification of plans, the Faculty has a right to be kept informed of operations, and to be consulted on operational problems or decisions which may affect the overall operations or plans of the School. Accordingly, the powers and responsibilities listed below do not constitute an exclusive list.

2.2 Recommendations on Policy. The Faculty shall have the authority and responsibility to make recommendations to the Dean, for implementation within the Law School, or, where appropriate, for transmission to the President or to the Faculty Senate, with respect to policies governing:

(1) Faculty personnel matters, including standards of appointment, re-appointment, promotion, tenure, and termination;

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[1] As originally adopted on June 4, 1973, and conformed to include all amendments made to date. A footnote number at the end of a section or of a paragraph within a section indicates that the section or paragraph has been amended. Explanatory comments are set forth in the footnotes. Amendments which merely renumbered sections are not footnoted, nor are amendments to sections subsequently repealed. This version is an exact copy of that prepared by then Secretary Hugh Ross which was headed "Current to January 1, 1986", except for some formatting changes, and except for the amendment of May 14, 1996 to 3.1. This copy was last proof read against the Ross version on November 16, 1995. This revision was prepared to conform to changes in the University Faculty Handbook adopted in 2003. Changes to the status of the Lawyering Skills Faculty were adopted by the Faculty of Law on October 1, 2007, and changes to add a budget committee, an experiential education committee, and allow Clinical Faculty to seek tenure-track appointments were adopted November 17, 2011. Changes to grant voting rights to special faculty, allow them to serve on committees, and eliminate provisions in conflict with the Faculty Handbook were approved by the Faculty on September 30, 2015. Changes added the title "Lecturer" to 3.3 were added on January 19, 2017.

[2] Amended by the Faculty on September 30, 2015 at request of Central UGC to clarify the meaning of "plans."

(2) assignment of courses and Faculty workloads;

(3) standards for curricula and content of courses and programs;

(4) standards and facilities for research and scholarship;

(5) requirements for admission and graduation;

(6) the establishment or discontinuance of educational or service programs.

2.3 Specific Functions. The faculty shall have the authority and responsibility to:

(1) make recommendations to the President and the Board of Trustees for the awarding of degrees in the ordinary course;

(2) make recommendations to the President relative to appointment of a Dean of the Law School in accordance with Faculty Handbook procedures;[3]

(3) make recommendations to the President for appointment of members of the Faculty. No person shall be appointed to the tenured, tenure track or non-tenure track Faculty by the University unless his or her appointment has been recommended by the affirmative vote of the faculty. This function may not be delegated.[4] Special Faculty may be appointed by the Dean or his designee as provided in the Faculty Handbook.

(4) make recommendations to waive policies on requirements for admission or graduation in specific areas. This function may be delegated.

(5) make recommendations to the Dean on the appointment of administrative officers, the formulation of the budget, and the allocation of the resources and facilities of the Law School, without limitation on the Dean's authority in any of the matters referred to in this paragraph 5.

[3] Sections 2.3(2) and (3) were amended September 30, 2015 to add "in accordance with Faculty Handbook procedures."

[4]Amended April 22, 1981. The former section provided that no person shall be appointed unless the appointment is approved by the Faculty, incorrectly implying that it is the Faculty which appoints. Reference to Faculty Handbook incorporated on September 30, 2015.

ARTICLE 3: MEMBERSHIPAND VOTING RIGHTS[5]

3.1 Tenured or tenure track faculty. Tenured or tenure track faculty members, whether clinical faculty or non-clinical faculty, are those persons holding full-time academic appointments at the ranks of professor, associate professor, and assistant professor whose obligations to the Law School and the University include 1) teaching, 2) research and scholarship, and 3) service to the Law School and the University Community. Non-clinical tenured or tenure track faculty shall be appointed, evaluated, reappointed and promoted in accordance with the procedures memorialized in Appendix A attached and incorporated by reference. Clinical tenured or tenure track faculty shall be appointed, evaluated, reappointed and promoted in accordance with the procedures memorialized in Appendix A as to their research and scholarship, but as to Appendix B attached and incorporated by reference, as to their teaching, practice and service to the Law School and the University Community. Tenured or tenure track faculty shall be entitled to vote on all matters coming before the University Faculty and the Faculty of Law, except as limited below.

3.2 Non-tenure track faculty. Non-tenure track faculty members are those persons holding full-time academic appointments at the ranks of professor, associate professor, assistant professor, senior instructor, and instructor whose obligations to the Law School and the University include two of the three obligations of the tenured/tenure track faculty, i.e., 1) teaching, 2) research and scholarship or 3) service to the Law School and the University Community. Non-tenure track faculty in the Law School shall be appointed, evaluated, reappointed and promoted in accordance, where applicable, with either 1) the Policies and Procedures for Clinical Faculty attached as Appendix B and incorporated by reference; 2) the Policies and Procedures for Lawyering Skills Faculty attached as Appendix C and incorporated by reference; or 3) the Policies and Procedures for Other Non-Tenure Track Faculty attached as Appendix D and incorporated by reference. Non-tenure track Clinical Faculty, non-tenure track Lawyering Skills Faculty, and instructors and senior instructors eligible for reappointment under Appendix D shall be entitled to vote on all matters coming before the University Faculty and the Faculty of Law, except as limited below.[6]

3.3 Special faculty. Special faculty members are 1) those persons holding part-time academic appointments, or 2) persons holding full-time academic appointments, but who have

[5] Article 3 was substantially revised October 1, 2007 and slightly revised on November 17, 2011 to conform to the revised Faculty Handbook.

[6] This sentence was revised on May 15, 2008 to give non-tenure track Lawyering Skills Faculty the same voting rights as non-tenure track Clinical Faculty, except as limited in 3.4. On September 30, 2015, voting rights were granted to other full-time non-tenure track faculty eligible for reappointment.

specific, limited responsibilities for the duration of a specific project, or for a limited duration. The obligations of special faculty shall include one or more of the three obligations of the tenured/tenure track faculty, i.e., 1) teaching, 2) research and scholarship or 3) service to the Law School and the University Community. The titles of special faculty in the Law School shall be lecturer[7], visiting assistant professor, visiting associate professor, or visiting professor of law, visiting instructor or visiting senior instructor of law, or adjunct assistant, adjunct associate, or adjunct professor of law.[8] Special faculty members shall not be entitled to vote on matters coming before the University Faculty or the Faculty of Law.

3.4 Voting Limitations.

(1) On matters involving the granting of tenure, only those Faculty members with tenure shall be entitled to vote.

(2) On matters involving promotions of non-clinical Faculty who have tenure track appointments, only those tenured or tenure track Faculty of rank equal to or senior to the rank to which the individual is being promoted shall be entitled to vote.

(3) On matters involving initial non-clinical tenure track appointments to the Faculty (regardless of rank), only those Faculty who have tenure track appointments shall be entitled to vote. [9]

(4) On matters involving the initial appointment of non-tenure track or tenure track Clinical Faculty, only tenured or tenure track and Clinical Faculty (tenure track or non-tenure track) shall be entitled to vote.

(5) On matters involving the reappointment or promotion of non-tenure track or tenure track Clinical Faculty, only those Faculty of rank equal to or senior to the rank to which the individual is being reappointed or promoted shall be entitled to

[7] Revised January 19, 2017 to add lecturer as a title for special faculty, and to allow special faculty to perform one OR MORE of the obligations of tenured faculty.

[8] Stylistic changes approved September 30, 2015 to improve flow of paragraph, and eliminate reference to "full professor", since Faculty Handbook does not recognize that rank. Title of Lecturer was added to available titles by unanimous vote of the Faculty on January 19, 2017, and language was revised to indicate that special faculty's obligations include one or more of the three obligations.

[9] The phrase "and on personnel matters involving initial appointments . . ." (since revised to read "On matters involving initial tenure-track appointments" . . .) was added by amendment adopted January 11, 1983. The purpose was to spell out that administrative officers who have regular Faculty appointments, but who are not tenure track, cannot vote on initial appointments to the regular Faculty. The whole of 3.1 (now 3.4) was substantially revised by faculty vote of May 14, 1996, in order to make provision for members of the clinical faculty.

vote.[10]

(6) On matters involving the initial appointment of non-tenure track Lawyering Skills Faculty, all tenured, tenure track, Clinical and Lawyering Skills Faculty shall be entitled to vote.

(7) On matters involving the reappointment or promotion of non-tenure track Lawyering Skills Faculty, only those Faculty of rank equal to or senior to the rank to which the individual is being reappointed or promoted shall be entitled to vote.

(8) On matters involving standards and policies concerning promotion, tenure, or eligibility for sabbatical leave of non-clinical tenured or tenure track Faculty, only tenured or tenure track Faculty shall be entitled to vote.

(9) On matters involving standards and policies concerning promotion, tenure, or eligibility for sabbatical leave of tenured or tenure track Clinical Faculty, only tenured or tenure track Faculty and Clinical Faculty (tenure track or non-tenure track) shall be entitled to vote.

3.5 Law Librarian. The Law Librarian is eligible for election to the tenured, tenure track, non-tenure track, or special Faculty as defined above, which election shall entitle the Law Librarian to vote on matters presented to the Law Faculty, in accordance with the voting rights and limitations applicable to the type of appointment.[11]

3.6 Allocation of Resources. The Law School shall allocate a reasonable amount of resources and time to each member of the Law Faculty (whether tenured, tenure track, non-tenure track or special) to encourage and make possible scholarly growth, academic achievement and professional development, to enable them to fulfill their obligations as required by the nature and type of their appointments.

3.7 Definition of Full-time Faculty. For all purposes in these By-laws, the term "full-time" when referring to Law Faculty shall be defined as in Chapter 3, Part One, Article I, Section B.2. of the Faculty Handbook.[12]

ARTICLE 4: OFFICERS

[10] Sections 3.4(5) and (7) were amended on September 30, 2015 to eliminate differential seniority rules for voting; the Faculty Handbook does not recognize such provisions.

[11] Section 3.3 (now 3.5) was added March 18, 1983, to clarify the Faculty status of the law librarian.

[12] Amended September 30, 2015 to correct clerical error to incorrect provision of Faculty Handbook and reference correct provision.

4.1 Presiding Officers. The Dean of the School of Law shall preside at Faculty Meetings unless the President of the University exercises the presidential prerogative to do so. In the absence of both the President and the Dean, the Associate Dean for Academic Affairs shall preside unless the Faculty elect a presiding officer.

4.2 Secretary. The Secretary shall be elected annually by the Faculty. The functions of the secretary are:

(1) to keep the minutes of the Faculty Meetings and sign the official copies of the minutes;

(2) to be responsible for reproduction and distribution of these minutes to the Faculty;

(3) to be responsible for preparation of and distribution to the Student Bar Association of a summary of action taken at Faculty Meetings, with the approval of the Dean;

(4) to prepare for the Faculty annually in the fall a list of members of the Faculty including those with voting privileges and those without voting privileges.

ARTICLE 5: MEETINGS

5.1 Regular Meetings. The Faculty shall hold at least three regular meetings in each semester on dates to be determined by the Dean. The Faculty at any regular meeting may by majority vote fix the date of the next regular meeting.

5.2 Special Meetings. Special meetings shall be held on the call of the President, the Dean, or on the written request to the Dean or the Secretary signed by 20% of the voting Faculty.

5.3 Attendance at Faculty Meetings. All full-time Faculty (including full-time special Faculty) shall be entitled to attend any meeting of the Faculty subject to the limitations in this paragraph. Part-time Faculty, and administrative personnel (who do not have full-time Faculty appointments in addition to their administrative appointment) shall be entitled to attend meetings of the Faculty to which they are specifically invited by the Dean. In matters involving initial appointments to the Faculty, only full-time tenured, tenure track, non-tenure track and special Faculty, whether or not they are entitled to vote on the matter under consideration, shall be entitled to attend that portion of the meeting at which discussions and a vote take place. In matters involving reappointments, promotions, and grants of tenure, only those Faculty who are entitled to vote on the matter under consideration before the Faculty shall be entitled to attend that portion of the meeting at which discussions and a vote take place.

5.4 Voting. Voting shall be by voice vote or by show of hands, unless a secret ballot vote is called for by this bylaw provision or by any voting member, in which case the vote shall be by secret ballot. Votes may be cast by a written proxy filed with the Secretary.[13] A secret ballot shall be required on all personnel matters, including appointments, reappointments, promotions, and grants of tenure.[14]

5.4 Quorum. One half of the members of the Faculty entitled to vote on a particular matter shall constitute a quorum for that matter. Members present by proxy shall not be counted in determining a quorum.

5.6 Notice and Agenda. The Dean (or in his or her absence the Secretary) shall notify in writing each member of the Faculty entitled to notice, at least five (5) days in advance of any meeting held during the academic year, and at least fifteen (15) days in advance of any meeting held during the summer period. Faculty on leave shall be entitled to receive notice and to vote. The notice shall specify the time and the place of the meeting, and the agenda of the meeting. Items of business not listed on the agenda may be considered at a regular meeting. No action may be taken at either a regular or special meeting on an individual personnel decision (appointment, promotion, tenure, etc.) unless the notice of the meeting specifies the individual and the action proposed. The requirement of notice of a meeting may be waived by a written waiver agreed to by the faculty member(s), and shall be waived by attendance at the meeting.

5.7 Action Without Meeting. Any action which may be taken by the Faculty at a meeting may be taken without a meeting, by a writing filed with the Secretary setting forth the action taken and the written approval of all of the Faculty entitled to vote on such action if a meeting were held.

ARTICLE 6: RULES OF ORDER AND ORDER OF BUSINESS

6.1 Rules of Order and Order of Business. The meetings shall be conducted in accordance with Robert's Rules of Order (latest edition). The order of business at all regular meetings shall be as follows:

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[13] Prior to the Amendment of October 18, 1978, Section 5.3 (now 5.4) read as follows:
"5.3 Voting. Voting shall be by voice or show of hands unless a roll call vote is requested by any voting member in which case a roll call vote shall be taken and recorded. Votes may be cast by a written proxy filed with the Secretary, with respect to specific matters listed in the notice of the meeting."

On September 30, 2015, the faculty voted to retain the proxy system despite a recommendation from Central University that we abolish it, and the reference to "by this bylaw provision" was inserted to make paragraph logically consistent.

[14] Secret ballots for personnel matters were adopted by Amendment of April 14, 2005.

(1) Presentation of proxies and determination of a quorum[15];
(2) Presentation and adoption of minutes;
(3) Announcements;
(4) Report from the Faculty Senator or Senators[16];
(5) Reports of Standing Committees;
(6) Reports of Special Committees;
(7) Consideration of unfinished business; and
(8) Consideration of new business.

ARTICLE 7: COMMITTEES

7.1 Standing Committees. The Standing Committees of the Faculty are the Committees on:
(1) Admissions
(2) Appeals and Rules
(3) Appointments
(4) Building
(5) Curriculum
(6) Library
(7) Promotion and Tenure[17]
(8) Budget
(9) Experiential Education

ARTICLE 8: - MEMBERSHIP AND PROCEDURES OF COMMITTEES

8.1 Ex-Officio Members. The Dean, or a Faculty member or administrator designated by the Dean, shall serve as a member ex officio of all Standing and Special Committees, except for the Promotion and Tenure Committee, with full voting rights.[18]

8.2 Faculty Members of Committees. Tenured, tenure-track, non-tenure- track, and Special Faculty are eligible to serve as Faculty members of the Committees.[19]

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[15] Section 6.1(a) (now 6.1(1)) was amended and 6.1(d) (now 6.1(4)) was adopted September 27, 1985.

[16] Section 6.1(a) (now 6.1(1)) was amended and 6.1(d) (now 6.1(4)) was adopted September 27, 1985.

[17] Sections 7.1 and Sections 9.2-9.8 were amended September 30, 1983, to restructure the Standing Committees.

[18] Section 8.1 was amended November 18, 1983 to conform Section 8.1 to Section 9.8, as 9.8 was amended September 30, 1983.

[19] Amended September 30, 2015 to allow Special Faculty to serve on committees.

8.3 Student Members of Committees. Only full-time students of the School of Law are eligible to serve on Committees designated in Article 9 as having student members.

8.4 Selection of Members - Standing Committees. Faculty members shall be elected by the Faculty. Student members shall be selected by the Student Bar Association.[20]

8.5 Selection of Members - Special Committees. For those Special Committees established by the Faculty, members shall be selected in the manner designated by the Faculty, and for those Special Committees established by the Dean, members shall be selected by the Dean.

8.6 Time of Selection and Term. Members of Special Committees shall be selected at such time and shall serve for such time as shall be designated by the authority (Dean or Faculty) which establishes the Committees. Student members of Standing Committees shall be selected not later than the first month of the fall semester, to take office immediately. Faculty members of Standing Committees shall be elected not later than the first month of the fall semester, to take office immediately.[21] Members of Standing Committees shall serve from the time selected until the end of the academic year for which they are selected, or until their successors assume office, whichever is later.

8.7 Officers. The Chair of each Committee shall be designated from among the membership of the Committee, by the Dean, with the advice and consent of the Faculty. The Secretary shall be designated from among the membership of the Committee, by the Chair. The Chair shall have the right to vote in all cases.

8.8 Procedures. Committees shall meet on the call of the Dean, the Chair, or on the call of the majority of the Committee, and may establish rules as to the conduct of its meetings. Two thirds of the members of the Committee shall constitute a quorum, and all decisions shall be by majority vote of those present. All Committee members have equal rights to vote and participate.

ARTICLE 9: FUNCTIONS AND COMPOSITION OF COMMITTEES[22]

[20]Prior to Amendment on June 3, 1974, Section 8.4 read as follows:
"8.4 Selection of Members - Standing Committee.
Faculty members shall be appointed by the Dean with the advice and consent of the Faculty. Student members shall be selected by the Student Bar Association."

[21]Prior to Amendment on June 3, 1974, the third paragraph of Section 8.6 read as follows:
"Faculty members of Standing Committees shall be selected during the last month of the spring semester, to take office immediately."

[22] Section 7.1 and Sections 9.2-9.10 were amended September 30, 1983, and November 17, 2011, to

9.1 Special Committees. Special Committees shall have those functions and shall be composed of those persons (including Faculty, students, and others) as are designated by the authority (Dean or Faculty) which establishes the Committee.

9.2 Admissions. The Admissions Committee shall be composed of two student members, at least four Faculty members, and the Dean or his designee. The Committee shall consider and recommend to the Faculty major policies on admissions and financial aid; evaluate admission and financial aid procedures; and participate in the admissions process where discretionary judgment is required and the decision has not been delegated to the admissions office for determination under specific policies.

9.3 Appeals and Rules. The Appeals and Rules Committee shall be composed of at least four Faculty members. The Committee shall serve as the grievance Committee for the Law School. The Committee shall hear appeals by students from administrative decisions of the Dean or his designee which implement academic policies, except for violations of the Law School Code of Conduct. The decision of the Committee on such appeals shall be final within the Law School, subject only to appeal procedures, if any, at the University level. The Committee shall receive reports on administrative implementation of academic policies from the Dean, and may review such decisions on its own motion, and shall accept such ad hoc assignments as may be determined by the Faculty. The Committee may also develop and recommend to the Dean guidelines for the implementation of academic policies. The Committee shall develop and recommend revisions to the Law School's Academic Regulations, Policies, and Procedures, and shall forward any revisions to the Faculty for adoption. The Committee shall also have jurisdiction to hear all matters in which revocation of academic credit previously granted is requested because of plagiarism, cheating, improper cooperation on work or other violation which reflects on the academic significance of the effort for which credit has been granted. The Committee shall consider the Law School Code of Conduct, the Law School's Academic Regulations, Policies, and Procedures, and relevant University policies on Academic Integrity Standards in making its decision on revocation of academic credit. If the Committee finds that a student has committed such a violation, it may retroactively revoke any credit which may have been awarded for said effort.[23]

9.4 Appointments. The Appointments Committee shall be composed of two students, at least four Faculty members and the Dean or his designee. The Committee shall review all

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restructure the Standing Committees.

[23]The last three sentences of Section 9.3 were added by Amendment on December 4, 1985 (sentences one and three), and September 30, 2015 (sentence two). The 2015 Amendment was intended to provide clarification as to the factors the Committee considers. The paragraph was also restyled to change the order of several sentences, with no substantive change intended.

candidates for appointment to the tenured, tenure track, or non-tenure track Faculty, shall make recommendations to the Faculty on every such appointment, and shall, on request of the Dean, review candidates for the special Faculty, including visiting Faculty.

9.5 Building. The Building Committee shall be composed of two student members, at least three Faculty members, and the Dean or his designee. The Committee shall advise the Faculty and the Dean on the utilization, allocation, maintenance, and replacement of the physical facilities of the law school.

9.6 Curriculum. The Curriculum Committee shall be composed of two student members, at least four Faculty members, and the Dean or his designee. The Committee shall consider and make recommendations to the Faculty on all matters relative to the educational programs for which credit is awarded. The Committee shall also exercise oversight of the administration of all joint degree programs.

9.7 Library. The Library Committee shall be composed of two student members, the Librarian ex-officio, at least three Faculty members, and the Dean or his designee. It shall advise and assist the Dean and Librarian on library services, and shall make recommendations to the Faculty on library policies.

9.8 Promotion and Tenure. The Promotion and Tenure Committee shall be composed of at least four tenured or tenure track Faculty members. In the case of non-tenure track Clinical or Lawyering Skills Faculty candidates, the Committee shall be augmented as required in Appendices B and C. In the case of non-tenure track candidates other than Clinical or Lawyering Skills Faculty, the Committee shall be augmented by one non-tenure track faculty member of equal or senior rank to the candidate under consideration. The Committee shall consider all matters of promotion, reappointment and tenure for members of the Faculty (tenured, tenure track, or non-tenure track). The Committee shall consider these matters in accordance with the criteria set forth in Appendices A, B, C, and D, and shall make recommendations to the Faculty thereon. Each Faculty member whose appointment leads to tenure consideration shall be considered for tenure no later than six years after the effective date of the initial appointment, excluding any period of any pre-tenure extension that may have been granted under the Faculty Handbook provisions.[24]

9.9 Budget. The Budget Committee shall be composed of at least three Faculty members and the Dean or his designee. It shall advise and assist the dean and make recommendations to the Faculty on matters pertaining to the budget.[25]

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[24]Amended June 3, 1974, and again on August 29, 1980. The last sentence provides for a six-year pre-tenure period. The prior bylaw provided for a five-year pre-tenure period for those whose initial appointment was assistant professor, and a three-year period for those whose initial appointment was associate professor.

[25] Added by Amendment on November 17, 2011.

9.10 Experiential Education. The Experiential Education Committee shall be composed of two student members, at least four Faculty members and the Dean or his designee. The Committee shall consider and make recommendations to the Faculty on all matters relative to the experiential education program for which credit is awarded.[26]

ARTICLE 10: FACULTY REPRESENTATION IN UNIVERSITY GOVERNANCE

The Faculty shall be represented in University Governance by its Dean, other law school administrators, and by individual members of the Faculty as they shall from time to time be elected to serve on various University governing bodies.

The Faculty shall elect representatives to the Faculty Senate and other similar organizations which include Faculty representatives. All such representatives shall be elected at the time and for the term specified in the rules of such organization.[27]

ARTICLE 11: AMENDMENTS

These By-Laws may be amended at any Faculty meeting provided that each voting member of the Faculty shall have received from the Dean or the Secretary a written copy of the proposed amendments at least seven (7) days before the meeting.

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[26] Added by Amendment on November 17, 2011.

[27] Article 10 was added by Amendment on June 3, 1974.

CERTIFICATION

I certify that the above is a true copy of the By-Laws of the Faculty of Law, Case Western Reserve University, conformed to include all Amendments made up to the date of this certificate.

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Kathryn Mercer, Faculty Secretary

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Date:

APPENDIX A TO THE BY-LAWS OF THE
FACULTY OF LAW
Case Western Reserve University

PROCEDURES FOR PROMOTION, REAPPOINTMENT AND TENURE

I. . SOURCES OF PROMOTION, RETENTION AND TENURE PROCEDURE

The Policies and Procedures generally governing appointments, promotions, re-appointments and tenure for all University Faculty are set forth in the University Faculty Handbook, chapter 3, part 1. For tenure track faculty personnel decisions, these procedures are supplemented periodically by the University's "Guidelines for Recommendation of Faculty Promotions and Awards of Tenure" ("University Guidelines".) Attached are the University Guidelines promulgated for academic year 2014-15.[28] These Procedures incorporate by reference the most current version of the University Guidelines. For Clinical and Lawyering Skills Faculty on the Faculty of Law, separate Policies and Procedures have been adopted and are attached to the By-Laws of the Faculty of Law as Appendices B and C respectively.

II. COMPOSITION AND FUNCTIONS OF THE PROMOTION AND TENURE COMMITTEE

A. As set forth in Section 9.8 of the By-Laws the Promotion and Tenure Committee is composed of at least four tenured or tenure track faculty who evaluate the teaching, scholarship and service of tenure track faculty for purposes of Promotion and Tenure.

B. The Promotion and Tenure Committee also conducts annual reviews of faculty on the tenure, and non-tenure tracks, evaluates non-tenure track faculty for promotion and reappointment, and reviews sabbatical requests of tenured faculty. For purposes of reappointment and promotion of Clinical or Lawyering Skills faculty, the Committee is augmented as required in Appendices B and C to the By-Laws. For purposes of retention and promotion of non-tenure track faculty other than Clinical or Lawyering Skills Faculty, the Committee is augmented by one non-tenure track faculty member of equal or senior rank to the candidate under consideration.

III. STANDARDS FOR PROMOTION AND TENURE OF TENURE TRACK FACULTY

A. As the Faculty Handbook indicates, a tenure track candidate being considered for promotion or tenure will be evaluated on the basis of that candidate's contributions in (1) teaching, (2) research and scholarship, and (3) university and professional service.

[28] Outdated reference corrected September 30, 2015.

1. Teaching and scholarship are the most important requirements because they reflect the two primary functions of the university faculty.

2. Excellence in teaching, a significant and substantial scholarly contribution, and service to the University and Law School communities are required of all candidates for Promotion and Tenure.

3. Promotion and tenure decisions are not made merely to recognize past performance but also involve a prediction of future contributions.

4. The Promotion and Tenure decision involves a determination of whether the candidate has fulfilled and will continue to fulfill the obligation of teaching, scholarship, and service.

5. The standards for Promotion and Tenure are evolving standards, and it is expected that they will become increasingly rigorous as the Law School continues to improve and gain recognition as a national law center of importance.

B. Evaluating Scholarship and Teaching

1. Standards for evaluating teaching and scholarship sufficient to support a promotion or tenure are not readily reducible to words or formulae.

2. The scholarship must reflect substantial research, a thorough understanding of the subject, and an insight into the issues and problems that contribute substantially to available knowledge. It should, in other words, make a significant advance to our understanding of the field.

3. The most important aspect is the depth and reach reflected in the scholarship. Descriptive analysis is often a useful contribution, but the grant of tenure normally requires that the scholarship also include the development of a systematic approach or analytical rigor of a higher order.

4. A writing is normally considered “published” when it has been formally accepted for publication.

5. Teaching will be evaluated on the basis of annual reviews, student evaluations and faculty class visits.

C. Promotion to Associate Professor

1. Normally, two published articles and demonstrated teaching effectiveness are

expected for promotion to associate professor.

2. A candidate initially will be considered for promotion to associate professor in the fall following the completion of his or her second year of service.

3. A candidate may be granted an extension of one additional year for consideration for promotion to associate professor. While extensions are not automatic, requests for extension will be favorably considered for those candidates who have demonstrated substantial progress toward meeting the standards for promotion. Extensions are not considered as negative decisions.

D. Promotion to Full Professor with Tenure

1. Normally at least three significant articles and demonstrated teaching effectiveness are expected for consideration for promotion to full professor with tenure. As required by the Faculty Handbook, the candidate's record must show a documented national or international reputation for sustained scholarship in the candidate's discipline.

2. The normal pre-tenure period is six years, unless the letter of appointment provides otherwise. This means that a candidate will normally be considered for tenure and promotion to full professor in the fall following the completion of his or her fifth year of service.

E. Provisions for obtaining additional extensions during the pre-tenure period are set forth in the University Faculty Handbook, at Chapter 3, part 1 G.

IV. INTERNAL PROMOTION & TENURE COMMITTEE PROCEDURE REGARDING TENURE-TRACK FACULTY

A. Promotion to Associate Professor without Tenure

1. At the beginning of the academic year in which the candidate is considered for promotion, the Chair discusses the promotion process with each candidate. The candidate is asked to provide eleven photocopies or reprints of his or her published articles, as well as photocopies of any manuscripts that have been accepted for publication, normally by the end of September. In addition, the candidate is asked to provide the Chair with an annotated curriculum vitae. This should provide the information described in the University Guidelines related to Tenure and Promotion Recommendations.

a. Scholarship completed prior to the candidate's appointment to the CWRU Law Faculty but published post-appointment, as well as legal scholarship that has been performed for a purpose in addition to meeting the Law School's scholarship requirement, such as fulfillment of a Ph.D. degree, generally is considered part of the candidate's law school

scholarship.

2. The University Guidelines state that outside reviewers should be secured for promotion.[29]

a. **Candidate Suggestions.** The Chair requests the candidate to suggest up to 12 persons to serve as outside reviewers of the candidate's scholarship. The candidate should be asked to describe any relationship that he or she has with the reviewer in order to ensure compliance with the University Guidelines.

b. **Committee Nominations**. The Chair shall share the candidate's suggested outside reviewers with the members of the committee, and shall ask the committee members to nominate suggested reviewer of their own. The Chair may also ask other Faculty members to nominate potential outside reviewers. The Chair and committee shall assemble a list of nominated reviewers, and shall share this list with the candidate; the nominee list should contain at least twice[30] as many names as persons who will be final reviewers. The candidate may then identify any nominated reviewer who the candidate believes may provide a biased evaluation. The Committee may remove a nominated reviewer from the nominee list based on the candidate's objections.

c. **Final Slate of Potential Reviewers.** The committee decides on a tentative list of final reviewers combining the candidate's suggestions and other nominated reviewers. The final list of reviewers is communicated to the Dean and the Office of the Provost. This list shall indicate who suggested the name and which of the individuals on the list were asked to submit evaluations. All the potential reviewers, not just those actually asked to submit evaluations, should be included on this list.[31]

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[29] These provisions were extensively revised on September 30, 2015 to make the law school's internal promotion and tenure review procedures more consistent with the Provost's university-wide tenure guidelines. This section was re-formatted, and paragraph IV.A.2.b. is largely new. The new provision is intended to promote the anonymity of outside reviewers while still protecting tenure candidates. Before 2015, the law school's internal procedures called for the candidate to review a list of potential reviewers for potential bias before the reviews were made; the 2015 change ensures that the nominee list will be twice as large as the final list, decreasing the danger that an outside reviewer will be identifiable to the candidate.

[30] Prior to September 30, 2015, this provision merely allowed the P&T Committee to suggest additional names of reviewers, and did not require any set number of reviewers.

[31] Extensively revised on September 30, 2015. The law school's prior version of these bylaws called for the FINAL list of potential reviewers to be shared with the candidate, and forwarded to the Provost. This provision was deleted in the September 2015 revisions, since sharing the final, pared-down list of referees with the candidate tends to

. The Dean (or the[32] Dean's designee) contacts potential outside reviewers, initially by telephone or email and with follow-up letters to the reviewers. Typically, the outside reviewer is asked to review one or more specific pieces of scholarship, and to comment in writing on that scholarship, together with any other information that the reviewer possesses about the candidate, in connection with the candidate's suitability for promotion and expectations of his or her future performance. The outside reviewer might also be provided the entire package of a candidate's scholarship and asked for comments on the package as a whole.

1) The Dean or the Dean's designee shall ensure compliance with the University Guidelines which provide that the letters solicited from outside reviewers are confidential to the extent permitted by law, and that this should be made clear to all referees. Referees should be informed that candidates will be shown a carefully redacted version of their review letter, and that the Dean or Dean's designee will exercise due diligence to preserve the referee's anonymity to the maximum extent practicable.[33]

2) The Promotion and Tenure Committee meets to review the candidate's scholarship before receiving and reviewing the letters from outside reviewers. The purpose is to permit the committee to develop its own opinion as to the candidate's scholarship independent of the evaluations from outside reviewers. In advance of this meeting to review the candidate's scholarship the Chair invites interested law faculty to review the candidate's scholarship and submit written evaluations for the committee's consideration. The committee's independent consideration of the candidate's scholarship incorporates the written views of faculty. The Chair summarizes the committee's reactions. The committee reviews the candidate's scholarship again when it examines the outside letters.

3. The committee also reviews the candidate's teaching based on past annual reviews, student evaluations, and faculty class visit memoranda. The Chair summarizes the committee's views concerning the candidate's teaching. The committee also reviews the candidate's service, and the Chair summarizes the committee's views on this issue.

a. The Chair asks all members of the committee to visit as many classes of the candidate as possible. In addition, the Chair circulates a memorandum to the faculty as a whole inviting them to visit as many classes of the candidate as possible. The Chair, in consultation with the committee, may request specific faculty members who are not on the

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undermine anonymity. Candidate review now happens in paragraph B above, and the list of potential reviewers must include at least twice as many names as will be included on the final list. In addition, the Provost's office receives the entire list of potential reviewers and an indication of who suggested the reviewer.

[32] Edited September 30, 2015 to remove gender-specific reference to "the Dean or his designee." No substantive change.

[33] Edited September 30, 2015 to include the Dean's designee in compliance requirements and to add final sentence regarding efforts to preserve anonymity.

committee to visit the candidate's classes. This is particularly appropriate for members of the faculty who have expertise in the candidate's fields. Each class visitor is asked to complete a written memorandum which is given to the Chair and circulated to the members of the committee. The University Guidelines provide that these memoranda are confidential "to the extent permitted by law." However, class visitors are encouraged to share their memoranda with the candidate.

b. The committee also reviews student evaluations. These should be all of the student evaluations pertaining to the candidate's classes, going back to the candidate's initial appointment year. From time to time, candidates for promotion also hold teaching positions at other schools within the university. Customarily, the Promotion and Tenure Committee has requested student evaluations from these other areas of the university. However, it is not customary for the members of the Promotion and Tenure Committee to visit classes outside the law school. From time to time candidates for promotion have taught at other law schools, either while on leave or prior to coming to Case. It is customary for the committee to obtain student evaluation from these other law schools. However, it is important for the Chair to determine how student evaluations are obtained and what use they are put to in these other areas of the university or at other schools, and to communicate this information to the committee to assist in reviewing the evaluations.

c. In accordance with the University Guidelines, the Promotion and Tenure Committee will endeavor to obtain teaching assessments from former students who have taken courses from the candidate.

4. The Chair asks each member of the committee to review the class visit memoranda, the student evaluations, the candidate's annotated curriculum vitae, and the candidate's scholarship. In addition, the University Faculty Handbook states that the faculty Promotion and Tenure Committee shall review the annual evaluations completed at the end of the third pre-tenure year.

5. By the end of October, the Chair should prepare a draft of the committee's views on the candidate's scholarship, teaching and service. The committee then reviews this draft and revises it. The Chair shares the revised draft with the candidate, who is asked to correct any factual errors. In addition, the Chair may provide the candidate with carefully redacted copies or summaries of the outside reviewers' letters in a fully de-identified format.[34] The candidate may wish to respond to the comments of the committee, and/or to those of the outside reviewers, in writing. These responses are included in the materials pertaining to the candidate's promotion that are given to the Dean.

[34] This sentence added September 30, 2015 to require that outside review letters be fully de-identified to preserve anonymity.

6. The Promotion and Tenure Committee then votes on whether or not to recommend the candidate's promotion to associate professor. The committee's decision is determined by majority vote

7. The Chair places copies of the candidate's annotated C.V., student evaluations and scholarship at several secretarial stations for review by the members of the faculty.

8. All members of the faculty who are entitled to vote on the promotion meet to consider it. According to Article 3 of the Faculty By-Laws, "this consists of only those faculty who rank equal to or senior to the rank to which the individual is being promoted." Thus, in the case of promotion to associate professor, tenured faculty with the rank of associate professor without tenure are entitled to vote. Article 5.4 of the Faculty By-Laws provides that "a secret ballot shall be required on all personnel matters, including appointments, reappointments promotions, and grants of tenure."

9. Following the faculty's vote, the faculty's recommendation is communicated to the Dean. The Dean then prepares the Dean's recommendation to the Provost, which accompanies the faculty's recommendation and includes the Promotion and Tenure Committee's report and associated supporting materials.

B. Promotion to Full Professor with Tenure

1. Section 9.8 of the Faculty By-Laws states that each faculty member shall be considered for tenure no later than six years after the effective date of his or her initial appointment. The 1986 Promotion and Tenure Memorandum similarly states that "the normal pre-tenure period is six years, unless the letter of appointment provides otherwise. This means that a candidate will normally be considered for tenure and promotion to full professor in the fall following the completion of his or her fifth year of service."

2. The University Faculty Handbook permits pre-tenure extensions:

a. "[F]or up to three years of extension for exceptionally worthy candidates in the event of unusual constraints in the University, or part of parts thereof which would prevent tenure awarded at the end of the normal period."

b. "[F]or the purpose of compensating special earlier circumstances disadvantageous to a candidate's tenure consideration." The Handbook adds that "such circumstances might include serious illness, family emergency, maternity, or extraordinary teaching or administrative assignments."

c. Upon written request by the faculty member within one year after each live birth or after each adoption, an extension of up to one year of the pre-tenure period shall be

granted by the provost to any faculty member who will be the primary care giving parent.

b. Extensions under a. and b. above must be approved by the faculty and the university. The Faculty Handbook states that except for extensions under c. above, no more than three years of extensions may be granted in the period before tenure, meaning that, generally, at the latest, a faculty member would be considered in his or her ninth year after appointment.

3. The written standards for outside reviewers are also the same as the standards for promotion to associate professor.

4. The procedures for the Promotion and Tenure Committee's consideration of a candidate's candidacy for promotion to full professor with tenure are essentially the same as those for consideration to promotion to associate professor.

5. The process of voting at the faculty level is also the same, except that only tenured faculty are entitled to vote on promotion with tenure.

C. Annual Reviews

1. In accordance with the University Faculty Handbook (Chapter 3(I)(F)(5)), the Dean shall ensure that all full-time faculty members receive an annual review. The Dean shall provide a written summary of the annual review to the faculty member.

2. Annual reviews of full-time, non-tenured members of the faculty typically are also conducted by the Promotion and Tenure Committee. In the first year of their appointment, this review is conducted in the spring semester. In subsequent years, the review process begins in the fall semester and continues through the spring of the academic year before the faculty member is considered for tenure, if applicable, or in the case of non-tenure track faculty, until they are promoted to the rank of Professor.

a. At the beginning of the annual review process the Chair of the Promotion and Tenure Committee sends a memo to each faculty member being evaluated and explains the process of the evaluation. The memorandum is accompanied by a form, a copy of which is attached, that the faculty member being evaluated is asked to complete and return to the Chair. The form asks about the faculty member's teaching, scholarship and service. The faculty member is asked to provide this information along with copies of any publications by a date certain. The candidate is invited, but not required, to share with the Promotion and Tenure Committee drafts of any works in progress or manuscripts that have been submitted but not yet accepted for publication. All manuscripts that have been accepted for publication, or that have been published, must be provided to the committee and form part of its review.

b. As the review gets underway, the Chair sends a memorandum to the faculty as a whole, stating that individuals may be asked specifically to visit a faculty member's class for purposes of the annual review, and inviting all other faculty members to visit the classes if they wish. The memo also asks those faculty who visit classes to make a written report of their visit and give it to the Chair.

c. There should be at least three class visits, including visits by a non-member of the committee. The Chair asks all members of the committee to try to visit at least one class of the faculty member being reviewed.

d. The Chair appoints an individual on the committee to be responsible for coordinating class visits by faculty members who are not on the committee. This member of the committee is responsible for making sure that the non-members of the Promotion and Tenure Committee who have been asked to visit classes complete their class visits and turn in their written evaluations in a timely manner.

e. Class visits should be completed shortly after spring break, and evaluations forwarded promptly to the Chair. The Chair circulates the written evaluations to all members of the committee. In addition, the Chair obtains and circulates photocopies of the student evaluations for the faculty member being evaluated from the previous spring and fall.

f. Once the members of the Promotion and Tenure Committee have had an opportunity to review the materials pertinent to the annual review, consisting of class visits, memos, student evaluations, the faculty member's information supplied in response to the Chair's form, and any manuscripts or published papers, the committee meets and discusses the faculty member's performance. The committee also reviews past annual reviews prior to this meeting, to ensure that the faculty member receives consistent advice despite changing committee membership. At the meeting, the Chair takes notes summarizing the committee's deliberations, and then prepares a draft memorandum summarizing the committee's conclusions and recommendations. This draft is shared with the members of the committee and revised based on their written comments, and if necessary, after further discussion at a subsequent committee meeting.

g. The final committee report is shared with the faculty member being evaluated. The faculty member is invited to meet with the full committee to discuss the annual evaluation.

h. The Promotion and Tenure Committee shall send its annual evaluations to the office of the Provost by the end of May.

V. SABBATICALS

A. In accordance with Chapter 3, Part One, Section II.A. of the University Faculty

Handbook, the Promotion and Tenure Committee shall review and make recommendations to the Dean regarding a faculty member's request for sabbatical leave.

VI. PROMOTION AND REAPPOINTMENT PROCESS FOR CLINICAL AND NON-TENURE TRACK LAWYERING SKILLS FACULTY.

A. The Policies and Procedures for Clinical Faculty and non-tenure track Lawyering Skills Faculty attached to the By-Laws of the Faculty of Law as Appendices B and C, respectively, provide for annual reviews and the standards for review of these faculty for promotion and reappointment. The Promotion and Tenure Committee, augmented as required in those standards, is charged with performing the necessary committee review in such cases and to make recommendations to the Faculty. To the extent that the standards for review of Clinical Faculty (Appendix B) are applicable to tenure track clinical faculty, the Promotion and Tenure Committee applies those standards to tenure track clinical faculty in addition to the standards for review of the candidate's scholarship described above.

B. As described more fully below, review for a promotion decision for such faculty should include the following: Candidate Dossier, Formal Written Evaluation by Faculty in the candidate's track that are senior to the candidate, and Review by the Promotion and Tenure Committee. In the case of tenure track clinical faculty candidates for promotion, the material described below is provided in addition to the requirements for review of the candidate's scholarship applicable to all tenure track candidates described above.

1. Candidate Dossier

a. The candidate should submit to the Promotion and Tenure Committee a full C.V. including all teaching and professional activities, any publications and unsolicited letters of support, testimonials or reviews.

b. It is not the intention of the faculty that the candidate solicit outside letters for the promotion process.

2. Formal Written Evaluation by Senior Faculty in the candidate's track.

a. A committee composed of all members of the faculty in the candidate's track who are senior to the candidate will provide the Promotion and Tenure Committee with a formal written evaluation of the candidate.

b. This evaluation will address the candidate's performance using all of the standards applicable to the candidate. The senior faculty will observe the candidate's teaching, review the candidate's teaching materials, and in the case of Clinical Faculty, selected

case files, and discuss with the candidate his or her activities. The report will reflect any minority views or specific issues raised by any of the senior faculty.

3. Review by Promotion and Tenure Committee

a. The Promotion and Tenure Committee will review the candidate dossier, the evaluation by senior faculty in the candidate's track, and all annual review reports previously completed by the Promotion and Tenure Committee. In addition, the Promotion and Tenure Committee will independently review the candidate's Teaching Effectiveness and in the case of Clinical Faculty, competence as a lawyer.

b. The Promotion and Tenure Committee will visit the candidate's classes. The committee will also review student evaluations.

c. In the case of Clinical Faculty, the Promotion and Tenure Committee, or a sub-committee of the Promotion and Tenure Committee, including the clinician member of the committee, will meet the candidate to discuss three cases the candidate has chosen. These case files will be accessible for committee review prior to the discussion meeting. The cases chosen by the candidate should reflect the range of his or her practice and supervision within the clinic.

d. In the case of Clinical and Lawyering Skills Faculty, the Committee or sub-committee will also review video-tape(s) of at least one supervision or one-on-one instructional sessions(s) provided by the candidate.

e. The Promotion and Tenure Committee will prepare a draft report of the committee's views. The Chair will share the draft with the candidate, who is asked to correct any misstatement. In addition, the candidate may wish to respond to the report of the committee. The augmented Promotion and Tenure Committee will prepare a final report and then vote on whether or not to recommend the candidate's promotion. The committee's decision is determined by the majority vote.

d. The Chair will place copies of the candidate's C.V. and student evaluations at several secretarial stations for review by members of the faculty. In addition, each faculty member entitled to vote on the promotion will be sent a confidential copy of the Promotion and Tenure Committee's recommendation and report, together with class visit memoranda. The committee will also include the candidate's written responses to the report, if any.

4. All members of the faculty entitled to vote as provided in Article 3.1-3.5 of the By-Laws of the Faculty of Law will meet to consider it. As required by Article 5.3, a secret ballot shall be required on all promotions.

5. Following the faculty's vote, the faculty's recommendation will be communicated to the Dean. The Dean will then prepare his own recommendation to the Provost, which will accompany the faculty's recommendation, and will include the Promotion and Tenure Committee's report and associated supporting materials.

C. As described more fully below, review for a reappointment decision for non-tenure track Clinical or Lawyering Skills Faculty at the rank of Professor, should include the following: Candidate Dossier; the last two annual reports to the Deans, together with the Deans' written comments following their meetings; copies of the candidate's most recent student evaluations; a Certification or Report from other Professors in the candidate's track who are equal in rank to the candidate; and Review by the Promotion and Tenure Committee.

1. Candidate Dossier

a. The candidate should submit to the Promotion and Tenure Committee a full C.V. including all teaching and professional activities, any publications and unsolicited letters of support, testimonials or reviews.

b. It is not the intention of the faculty that the candidate solicit outside letters for the reappointment process.

2. Certification or Report by other Professors in the candidate's track.

a. The other Professors in the candidate's track who are equal in rank to the candidate shall submit an evaluation that addresses whether the candidate continues to meet the applicable standards identified in the Policies and Procedures.

b. If the other Professors in the candidate's track believe the candidate continues to meet the applicable standards, the evaluation referred to in the previous paragraph shall consist of a brief "Certification" to that effect.

c. If the other Professors in the candidate's track believe the candidate no longer continues to meet the applicable standards, no "Certification" shall be submitted. In that case, the Professors in the candidate's track shall submit a report to the Promotion and Tenure Committee which addresses the issues presented. The report will reflect any minority views or specific issues raised.

3. Review by Promotion and Tenure Committee

a. The Promotion and Tenure Committee will review the candidate dossier, the Certification or Report by senior faculty in the candidate's track, the previous two annual reports to the Deans, together with the Deans' written comments following their meetings with the candidate, and copies of the candidate's most recent student evaluations. Absent a showing of good cause for a more substantial review of the candidate for retention, the committee's recommendation of[35] renewal at the rank of Professor shall be presumptive. If, upon a finding of good cause, the Promotion and Tenure Committee deems it appropriate to conduct a more substantial retention review, the Promotion and Tenure Committee shall follow such procedures as it deems appropriate to address any issues presented.

b. The Promotion and Tenure Committee will prepare a draft report of the committee's views. The Chair will share the draft with the candidate, who is asked to correct any misstatement. In addition, the candidate may wish to respond to the report of the committee. The augmented Promotion and Tenure Committee will prepare a final report and then vote on whether or not to recommend the candidate's retention. The committee's decision is determined by the majority vote.

c. The Chair will place copies of the candidate's C.V. and student evaluations at several secretarial stations for review by members of the faculty. In addition, each faculty member entitled to vote on the retention will be sent a confidential copy of the Promotion and Tenure committee's recommendation and report. The committee will also include the candidate's written responses to the report, if any.

[35] Amended May 23, 2016 to add "the committee's recommendation of" to this sentence. The edit was made at the request of the central university bylaws committee and the university general counsel's office, which felt the edit clarified the meaning of "presumptive." No substantive change intended.

4. All members of the faculty entitled to vote as provided in Article 3.1-3.5 of the By-Laws of the Faculty of Law will meet to consider it. As required by Article 5.3, a secret ballot shall be required on all reappointments.

5. Following the faculty's vote, the faculty's recommendation will be communicated to the Dean. The Dean will then prepare his own recommendation to the Provost, which will accompany the faculty's recommendation, and will include the Promotion and Tenure Committee's report and associated supporting materials.

VII. PROMOTION AND REAPPOINTMENT PROCESS FOR NON-TENURE TRACK FACULTY OTHER THAN CLINICAL OR LAWYERING SKILLS FACULTY.

A. Any non-tenure track faculty member who is eligible for promotion or reappointment at the end of the current appointment term, but who is not subject to the standards established for Clinical or Lawyering Skills Faculty attached to the By-Laws as Appendices B and C, shall be reviewed in accordance with this section VII. The Promotion and Tenure Committee, augmented as required by Section 9.8 of the By-Laws shall conduct a review as provided in C below and shall make recommendations to the Faculty and the administration concerning whether the candidate should be promoted or reappointed.

B. The criteria for reappointment or promotion shall include the following as appropriate according to the terms of the initial appointment:

1. <u>In General.</u> Depending upon the terms of the initial appointment, the standards for reappointment or promotion will involve a review of the candidate's performance in two out of three of the following: teaching, scholarship and institutional service.

2. <u>Teaching Effectiveness</u>. If required by the terms of the initial appointment, non-tenure track faculty members should demonstrate steady progress toward becoming effective teachers.

3. <u>Service to the University, the Profession and the Community.</u> If required by the terms of the initial appointment, non-tenure track faculty members will be called upon from time to time to engage in service to the Law School or University, for example in administrative or committee work. In addition, they may be asked to engage in public service, for example in organizing or appearing in continuing legal education programs, programs presented to non-lawyer community or educational groups, and service in other community groups such as boards of directors or legal bodies. Non-tenure track faculty are expected to perform such services satisfactorily. Any non-tenure track faculty member whose primary appointment is as an administrator and who holds a faculty appointment must also perform his or her administrative functions to the satisfaction of the Dean as a prerequisite to reappointment or promotion, regardless of that faculty member's teaching effectiveness or other institutional service.

4. Scholarship. If required by the terms of the initial appointment, the scholarship of non-tenure track faculty members must reflect substantial research, a thorough understanding of the subject, and an insight into the issues and problems that contribute substantially to available knowledge.

C. Review for a promotion or reappointment decision for such faculty should include the following: Candidate Dossier, and Review by the Promotion and Tenure Committee.

1. Candidate Dossier

a. The candidate should submit to the Promotion and Tenure Committee a full C.V. including all teaching and professional activities, any publications and unsolicited letters of support, testimonials or reviews.

b. It is not the intention of the faculty that the candidate solicit outside letters for the promotion or retention processes.

2. Review by Promotion and Tenure Committee

a. The Promotion and Tenure Committee will review the candidate dossier, and all annual review reports previously completed by the Deans and the Promotion and Tenure Committee. In addition, the Promotion and Tenure Committee will independently review those aspects of the candidate's teaching, research and scholarship, or service to the Law School and University that are required under the candidate's non-tenure track appointment. b. If appropriate, the Promotion and Tenure Committee will visit the candidate's classes. The committee will also review student evaluations.

b. The Promotion and Tenure Committee will prepare a draft report of the committee's views. The Chair will share the draft with the candidate, who is asked to correct any misstatement. In addition, the candidate may wish to respond to the report of the committee. The Promotion and Tenure Committee will prepare a final report and then vote on whether or not to recommend the candidate's promotion or retention. The committee's decision is determined by the majority vote.

c. The Chair will place copies of the candidate's C.V. and student evaluations at several secretarial stations for review by members of the faculty. In addition, each faculty member entitled to vote on the promotion or retention will be sent a confidential copy of the Promotion and Tenure committee's recommendation and report, together with class visit memoranda. The committee will also include the candidate's written responses to the report, if any.

3. All members of the faculty entitled to vote as provided in Article 3.1-3.5 of the By-Laws of the Faculty of Law will meet to consider it. As required by Article 5.3, a secret ballot shall be required on all promotions or retentions for non-tenure track faculty.

4. Following the faculty's vote, the faculty's recommendation will be communicated to the Dean. The Dean will then prepare his own recommendation to the Provost, which will accompany the faculty's recommendation, and will include the Promotion and Tenure Committee's report and associated supporting materials. If the candidate is promoted or retained, a new appointment shall be issued for the term recommended and approved by the Provost. If the candidate is not promoted or retained, the candidate's appointment shall be terminated in accordance with the notice procedures for non-renewal of term appointments set forth in the Faculty Handbook (Chapter 3, Part One, I, K.)

APPENDIX B

Policies and Procedures for Faculty Whose Primary Appointments Are In the Clinical Program

School of Law
Case Western Reserve University

I. Introduction

The faculty of law consists of the President of the University or his or her designee and all persons who hold full-time appointments in the School of Law and who have the rank of professor, associate professor, assistant professor, or instructor. These policies and procedures outline the rights and responsibilities of Case Western Reserve University School of Law l faculty whose primary appointments are in the clinical program at the law school, whether tenured, tenure track, or non-tenure track (referred to herein as "clinical faculty") and whose voting privileges are set forth in Sections 3.2 and 3.4 of the Law School by-laws. They encompass the process for hiring, evaluating, and promoting these faculty.

Nothing in these policies and procedures limits the inherent right of the faculty to control the content and approach of the clinical program.

II. Obligations of the Clinical Faculty

In general, the obligations of the non-tenure track clinical faculty to the institution are teaching and institutional service. In general, the obligations of the tenured or tenure track clinical faculty are teaching, institutional service, and research and scholarship.

III. Specifications of Rank and Title

A. The following titles shall be applied to clinical faculty appointments: "Assistant Professor," "Associate Professor," and "Professor." Professor is the most

senior title, followed in descending order by Associate Professor and Assistant Professor.

B. Assistant Professor. The title "Assistant Professor" applies to a member of the clinical faculty who is without significant teaching, practice, scholarship (if applicable) or other relevant experience, but who shows the capacity to be able to meet the applicable standards for promotion to the title of clinical professor.

C. Associate Professor. The title "Associate Professor" applies to a member of the clinical faculty who through prior teaching experience as an assistant, or through other practice, scholarship (if applicable), or relevant experience, demonstrates strong and improving performance and substantial progress toward meeting the applicable standards for promotion to the title of clinical professor.

D. Professor. The title, "Professor", applies to a clinical faculty member who possesses a) an expert knowledge of his or her field; b) effective teaching skills; c) for clinical faculty on the tenure track, a documented national or international reputation for sustained scholarship in the candidate's discipline; d) a willingness to assume a fair share of institutional administrative and service tasks; and e) a commitment to continuing development of his or her academic competence, teaching effectiveness, research and scholarship (if applicable) and contribution to the academic objectives of the clinical program, the School of Law and the University.

IV. Procedures for Appointment, Evaluation, Reappointment and Promotion.

A. Hiring. Appointment as a Visiting Clinical Professor may be made by the Dean for up to one year, and may be renewed by the Dean for not more than two additional years. All other hiring decisions shall be implemented by the Dean

pursuant to a recommendation by the Appointments Committee, and a majority vote of the faculty entitled to vote on the issue. For the sole purpose of considering a candidate for appointment to the clinical faculty, one member of the Appointments Committee shall be a member of the Clinical Faculty.

B. Reappointment and Promotion Decisions. The Promotion and Tenure Committee has responsibility for making recommendations to the Dean and the Faculty regarding promotion and reappointment of clinical faculty in accordance with the By-laws of the Faculty, Appendix A to those By-laws and these policies and procedures. All reappointment and promotion decisions shall be made pursuant to a majority vote in favor of the candidate by the faculty members entitled to vote following review by the Promotion and Tenure Committee. For the purpose of considering a member of the clinical faculty for promotion or reappointment, at least one member of the Promotion and Tenure Committee shall be a member of the Clinical Faculty who shall hold a title which is equal to or senior to the rank of the candidate under consideration.

C. Persons Entitled to Vote Regarding Clinical Faculty Personnel Matters. Subject to Section 3.4(5) of the Law School's bylaws,[36] any member of the tenure track Faculty shall be entitled to vote on initial appointments, reappointments, promotions or terminations regarding non-tenure track clinical faculty. Any member of the tenure track Faculty who holds a title which is equal to or senior to the rank of the candidate in question, may vote on initial appointments, reappointments, promotions or terminations of tenure track clinical faculty. In addition, non-tenure-track clinical faculty who have been granted voting privileges under the by-laws of the faculty of law with titles equal to or senior to the title of the candidate under consideration shall be entitled to vote on such matters regarding both tenure track and non-tenure track clinical initial appointments,

[36] Amended September 30, 2015 to conform to revised Section 3.4(5), eliminating special seniority rules for junior tenure-track faculty.

reappointments, promotions or terminations.

D. Non-Tenure Track Clinical Faculty Appointments as Assistant Professor

A non-tenure track clinical faculty candidate appointed as Assistant Professor shall be eligible to receive two consecutive one (1) year appointments, followed by a three (3) year appointment. If the reappointment is not made, employment shall terminate at the end of the current appointment term, subject to the notice provisions in the University Faculty Handbook.

At the end of the three (3) year appointment, if the candidate is not promoted to Associate Professor, employment shall terminate, subject to the notice provisions in the University Faculty Handbook.

E. Non-Tenure Track Clinical Faculty Promotion to Associate Professor

Review for promotion to Associate Professor shall be done by the Promotion and Tenure Committee in the spring of the faculty member's fourth year, which shall transmit its recommendation to the faculty for a vote.

If a candidate is not promoted, that candidate's employment shall terminate at the end of the current appointment term, subject to the notice provisions in the University Faculty Handbook.

Promotion to Associate Professor results in an appointment for a five (5) year term. At the end of the five (5) year term, if an Associate does not meet standards for promotion to Professor and is not promoted, employment shall terminate, subject to the notice provisions in the University Faculty Handbook.

F. Non-Tenure Track Clinical Faculty Promotion to Professor

Review for promotion to Professor shall be done by the Promotion and Tenure Committee in the spring of the faculty member's ninth year, which shall transmit its recommendation to the Faculty for a vote.

If the candidate is not promoted, that candidate's employment shall terminate at the end of the current appointment term, subject to the notice

provisions in the University Faculty Handbook.

Promotion to Professor results in an appointment for a five (5) year term, with renewals for subsequent five (5) year terms as specified in V.

G. Tenure Track Clinical Faculty Appointments and Promotions

The terms of tenure track clinical faculty appointments, reappointments, promotions and terminations shall be governed by the policies and procedures regarding other tenure track faculty at the Law School. Those policies and procedures are memorialized in Appendix A to the By-laws of the Faculty of Law as well as the University Faculty Handbook. As with other tenure track faculty, the pre-tenure period for tenure track clinical faculty is normally six years, subject to certain extensions which may be available as stated therein. Clinical faculty candidates on the tenure track normally will be considered for promotion from Assistant Professor to Associate Professor at the end of his or her second year of service. Clinical faculty candidates on the tenure track normally will be considered for promotion from Associate Professor to Full Professor with tenure at the end of his or her fifth year of service.

H. Notwithstanding any of the provisions in this section IV., if a non-tenure track clinical faculty member is supported by short-term grants, the School of Law may condition the continuation of employment on continued receipt or renewal of such grants.

V. Renewal of Non-Tenure Track Clinical Professorial Appointments.

In the spring of the fourth (4th) year of a five (5) year appointment as a non-tenure track Professor, the Promotion and Tenure Committee shall review the candidate's performance to ensure that the standards for appointment as a non-tenure track Professor continue to be met and shall make a recommendation to the faculty. The faculty shall meet to vote on the recommendation, and reappointment shall occur upon a majority vote in favor of reappointment by the faculty members

entitled to vote on such matters. If, following a valid faculty vote, the reappointment is not made, termination of employment would occur at the end of the current five (5) year appointment, subject to the notice provisions in the University Faculty Handbook.

VI. Periodic Evaluations

In addition to evaluations for promotion and reappointment, all clinical faculty members at the titles of Assistant and Associate Professor shall be given an annual performance evaluation by the Promotion and Tenure Committee for the purpose of assisting the candidate in achieving levels of performance sufficient to warrant promotion to the next level of appointment.

VII. Procedures for Termination of Employment.

Any clinical faculty appointment may be terminated: 1) for just cause as defined in the Faculty Handbook Chapter 3, Part One, Section I.E.3.; 2) for serious failure to meet the continuing performance obligations set forth in Item XI. below; or 3) pursuant to a Faculty vote pertaining to reduction in staff as set forth in Item VIII below.

If the Dean or a majority of the voting faculty determines that mid-term termination of employment should be considered, the matter shall be referred to the Promotion and Tenure Committee for review and recommendation to the Faculty.

Following receipt of the recommendation of the Promotion and Tenure Committee if, in a valid faculty vote, a majority of faculty members entitled to vote on such matters finds that sufficient cause exists for termination, the candidate's employment shall be terminated, in accordance with, and subject to the notice provisions in the University Faculty Handbook.

VIII. Termination or Substantial Modification of the Clinical Program.

If the clinical program is terminated or substantially modified by the Faculty in a way that requires a reduction in the need for clinical faculty who teach in the clinical program, a member of the clinical faculty may be terminated regardless of years of service or title, in accordance with, and subject to the notice provisions in the University Faculty Handbook.

If a majority of persons entitled to vote on such matters approve a reduction in clinical faculty size, the reduction shall be accomplished in order of ascending title (i.e. lowest title first) or in order of years of service within a title (i.e. least years of service first).

IX. General Standards of Performance Applicable to Tenure-Track or Non-Tenure-Track Clinical Faculty.

A. In General. Standards for reappointment and promotion for all clinical faculty require effective teaching and institutional service. In addition, for tenure track clinical faculty, reappointment and promotion require sufficient research and scholarship as described in Appendix A to the By-laws of the Faculty of Law.

B. Teaching Effectiveness. Teaching ability is the primary factor to be considered in evaluating non-tenure track clinical faculty for hiring, retention and promotion. Teaching ability is an equally important factor, along with research and scholarship, for tenured or tenure track clinical faculty. All Clinical faculty should demonstrate steady progress toward becoming effective teachers in the clinical program. Any clinical faculty member whose primary appointment is as an administrator and who holds a clinical faculty appointment must also perform his or her administrative functions to the satisfaction of the Dean as a prerequisite to reappointment or promotion, regardless of that clinical faculty member's teaching effectiveness or other institutional service.

C. Service to the University, the Profession and the Community. Clinical faculty, like other members of the Faculty, will be called upon from time to time to engage in service to the Law School or University, for example in administrative or committee work. In addition, they may be asked to engage in public service, for example in organizing or appearing in continuing legal education programs, programs presented to non-lawyer community or educational groups, and service in other community groups such as boards of directors or legal bodies. Clinical faculty are expected to perform such services satisfactorily.

Extraordinary performance of service is an important factor in promotion decisions for non-tenure track clinical faculty. Extraordinary performance of service, however, will not justify promotion or reappointment if a clinical faculty member has not demonstrated effective teaching ability, or in the case of tenure track faculty, the required research and scholarship.

D. Capacity to collaborate with Colleagues. A candidate for reappointment or promotion in the clinical program shall demonstrate that he or she can work well with colleagues and has the inclination to continue to do so.

X. Additional Standards of Performance in the Clinical Program for All Clinical Faculty.

In addition to the general standards stated above in Item IX., the following standards are applicable to all clinical faculty, whether tenured, tenure track, or non-tenure track. In the evaluation process, due consideration shall be given to client confidentiality and the likelihood that in the course of representing clients, clinical faculty may be required to vigorously espouse contentious positions with other counsel or the bench.

A. Clinical Teaching Effectiveness. Candidates for reappointment and promotion should demonstrate steady progress towards excellence in achieving the goals of clinical teaching: to instill in students the habits of careful research, rigorous analysis, thorough preparation, good relations with clients and others, honest self-criticism, and the ability to learn from experience. Candidates who achieve the title of Clinical Professor should perform proficiently in both one-to-one supervision and clinical classroom teaching.

B. Competence as a Lawyer. Because one of the goals of the clinical program is instruction in the lawyering skills and professional values needed by the practicing lawyer, the effective teacher must be a good lawyer. The following are criteria for determining the quality of lawyering. The list is not exhaustive:

1. Knowledge of the Law. Clinicians should be knowledgeable in the fields of law in which they practice. They should be able to identify matters that are beyond their expertise and bring such matters to the client's attention.

2. Legal skills. Clinicians should exhibit proficiency in a variety of skills, including:

a. Information gathering both from clients and others;

b. Legal research, analysis, and writing;

c. Strategy formation including client counseling;

d. Strategy execution including negotiation, trial advocacy and alternative dispute resolution;

e. Follow through, including keeping clients informed and maintaining good client relations; and

f. Practice management, including organization and control of the legal work and finances of the office. In evaluating a clinician's proficiency in practice management skills, due consideration should be given to the individual clinician's opportunities or lack thereof, for such things as case assignment, overall supervision of office procedures, and control of the office finances.

3. Professional Values and Professional Responsibility.

Clinicians should evidence an appreciation of the professional values necessary to be a competent advocate and officer of the court. Clinicians also should be aware of ethical issues raised by practice and should take appropriate action to deal with these issues in a manner consistent with applicable ethical and legal standards.

C. Character. Clinicians should be intellectually and emotionally capable of rendering professional service to clients and of providing supervision to students.

D. Growth as a Lawyer. The clinical program is designed primarily to assist students in becoming competent practitioners. Competency as a practitioner is not learned at once but must be achieved and maintained throughout one's career. Growth as a practitioner is, therefore, a factor for consideration in retention and promotion decisions.

Growth may be demonstrated in a variety of ways: for example, by an intensive period of time spent practicing law with a firm or governmental agency during the summers or while on sabbatical; by representing clients in the clinic or through public or private consultation in cases that pose significant new challenges to the faculty member; or by teaching in participating programs such as institutes on trial advocacy. This requirement shall be interpreted reasonably in light of the opportunities that the school and program make available.

XI. Continuing Performance Obligations of All Clinical Faculty.

Throughout the term of any clinical faculty member's appointment, the clinical faculty member is expected to continually improve his or her performance under the performance standards applicable to his or her appointment and articulated in these policies and procedures.

XII. Application to Incumbent Clinical Faculty.

Clinical faculty who are employed by the Law School when these policies and procedures are adopted shall be evaluated and appointed to the title and contract term that are warranted under these policies and procedures, but no clinical faculty member shall receive a title or contract term less than that under which that clinical

faculty member is currently employed.

The employment of any clinical faculty member who is currently appointed based upon a grant from outside the University shall, in addition to all other standards contained in these policies and procedures, be subject to termination at the expiration of: a) the grant period, or b) the term of appointment in effect for that clinical faculty member at the time of adoption of these policies and procedures, whichever event occurs later.

XIII. Transition of Clinical Faculty to the Tenure Track.

The following provisions are intended to implement the faculty decision made March 5, 2008 that provided: 1) all new clinical faculty who are considered for initial permanent, full-time appointments at the Law School that would begin after March 5, 2008, shall be considered for the tenure track, and shall be appointed, promoted, reappointed and considered for tenure pursuant to these policies and procedures as to their teaching and service, but shall also be subject to the policies and procedures regarding research and scholarship applicable to other tenured or tenure track faculty at the Law School. The policies and procedures applicable to research and scholarship are memorialized in the By-Laws of the Faculty of Law and Appendix A to those By-Laws; and 2) clinical faculty who were employed by the Law School on March 5, 2008 as non-tenure track clinical faculty under these policies and procedures are eligible to apply for transition to the tenure track.

A. Access to Tenure Track for Clinicians Employed as of March 5, 2008.

To be appointed to a tenure-track position, full-time clinical faculty members employed by the Law School as of March 5, 2008 must successfully go through the faculty appointments process to assess their scholarly potential. This would include

positive recommendations from the Faculty Appointments Committee to the faculty, from the faculty to the Dean, and from the Dean to the Provost. Such a recommendation would focus on teaching, service, practice, and scholarship. Teaching, service and practice shall be governed by the policies and procedures stated above generally applicable to all clinical faculty. Scholarship generally shall be governed by the provisions of Appendix A to the By-Laws of the Faculty of Law, applicable to other tenure track faculty.

1. **Evidence of Scholarly Potential** – As with nonclinical tenure-track candidates, clinical faculty seeking a tenure-track appointment must establish their strong interest in, and substantial potential for, producing high quality scholarship with reasonable regularity throughout their teaching career.

a. **Appointment on the Basis of Prior Articles**

Like candidates for nonclinical tenure-track positions, clinical faculty members may request that prior articles be considered in order to establish evidence of scholarly potential sufficient for appointment to a tenure-track position.

b. **Release Time and Support for Writing**

To be appointed to the tenure track, non-tenure track clinical faculty members employed by the Law School as of March 5, 2008, who have no prior publications or whose prior publications do not establish an adequate basis for appointment must produce an article demonstrating scholarly potential. Based upon their

scholarly potential and progress, as determined by the Dean, clinical faculty members in this position who declare their intention to seek a tenure-track appointment may be released from clinical obligations during the summer and may be given research support, including research assistants and summer research grants for no more than three years.

2. Once a clinical faculty member is on the tenure track, that faculty member will receive the same benefits, rights, and obligations as nonclinical tenure-track faculty.

B. Consideration of prior scholarship, rank and years to tenure at application

1. As with nonclinical tenure-track faculty, a clinical tenure-track faculty member may be given credit at the time of appointment for scholarship previously produced.

2. While working toward tenure, clinical tenure-track faculty members may retain the rank and titles they earned at the law school prior to being appointed to the tenure track.

C. Choice to apply for tenure track

1. Clinical faculty members must choose, within five years of June 30, 2008, whether to apply for a tenure-track position or retain long-term contract status.

2. Clinical faculty members who apply for, but do not receive, a tenure- track position would retain long-term contract status.

3. All full-time clinical faculty employed by the Law School as of March 5, 2008 have the option to retain their previous non-tenure track long-term contract status and not apply for a tenure-track position.

These policies and procedures were initially adopted by the Faculty of Law on April 16, 1997; additional changes to conform to Faculty Handbook and Bylaws changes adopted October 1, 2007; additional changes to provide for transition of clinical faculty from non-tenure track to the tenure track were adopted in September, 2009.

Appendix C: Policies and Procedures for Lawyering Skills Faculty

Case Western Reserve University School of Law

I. *Introduction*

These policies and procedures outline the rights and responsibilities of the faculty of the Case Western Reserve University School of Law whose primary appointments involve teaching lawyering skills courses[37], hereinafter referred to as the "lawyering skills faculty." These policies and procedures describe the process for hiring, evaluating, promoting, reappointing and terminating members of the lawyering skills faculty.

Nothing in these policies and procedures limits the inherent right of the faculty to control the content and approach of the lawyering skills program.

II. Obligations of the Lawyering Skills Faculty

In general, the obligations of the non-tenure track lawyering skills faculty to the institution are teaching and institutional service. The obligations of special lawyering skills faculty are teaching only.

III. Specifications of Rank and Title

A. *Ranks and Titles*. Lawyering skills faculty shall be non-tenure track or special faculty, depending upon the terms of the appointment. The following titles shall be applied to non-tenure track lawyering skills faculty appointments: "assistant professor of law," "associate professor of law," and "professor of law." Professor is the most senior rank, followed in descending order by associate professor and assistant professor. The following titles shall be applied to special lawyering skills faculty appointments: "adjunct professor of lawyering skills" or "visiting

[37] Amended September 30, 2015 to eliminate outdated reference to the former CaseArc lawyering skills program.

professor of lawyering skills" depending on the nature of the appointment. All non-tenure track lawyering skills faculty are senior to special lawyering skills faculty.

B. *Assistant Professor*. The title "assistant professor of law" applies to a member of the non-tenure track lawyering skills faculty who is without significant teaching or other relevant experience, but who shows the capacity to meet standards for promotion to the rank of professor.

C. *Associate Professor*. The title "associate professor of law" applies to a member of the non-tenure track lawyering skills faculty who has prior teaching experience as an assistant professor or has other relevant experience, and who demonstrates strong performance and substantial progress toward meeting the standards for promotion to the rank of professor.

D. *Professor*. The title "professor of law" applies to a member of the non-tenure track lawyering skills faculty who possesses 1) an expert knowledge of his or her field, 2) effective teaching skills, 3) a willingness to assume a fair share of institutional administrative and service tasks, and 4) a commitment to continuing development of academic competence.

IV. *Procedures for Appointment, Evaluation, Reappointment, and Promotion*

A. *Hiring*. Appointment as a special faculty member in the lawyering skills program on either a full-time or part-time basis may be made by the Dean for up to one year, and may be renewed by the Dean for an additional year. In addition, under the provisions of paragraph IV.G. below, the Dean may appoint lawyering skills special faculty to additional or continuing terms. All hiring decisions of non-tenure track lawyering skills faculty shall be pursuant to a recommendation by the Appointments Committee and a majority vote of the faculty entitled to vote on the issue. For the sole purpose of considering a candidate for appointment to the non- tenure track lawyering skills faculty, one member of the Appointments Committee shall be a member of the non-tenure track lawyering skills faculty.

B. *Reappointment and Promotion Decisions*. The Promotion and Tenure Committee (or such other committee designated for this purpose) has responsibility for making recommendations to the faculty regarding promotion and reappointment of non-tenure track lawyering skills faculty in accordance with these policies and procedures.

All reappointment and promotion decisions shall be made pursuant to a majority vote by the faculty members entitled to vote, following review by the Promotion and Tenure Committee. For the sole purpose of considering a member of the non-tenure track lawyering skills faculty for promotion or reappointment, one member of the Promotion and Tenure Committee shall be a member of the non-tenure track lawyering skills faculty who holds a rank equal to or senior to the rank to which the non-tenure track lawyering skills faculty member under consideration is being reappointed or promoted.

C. *Persons Entitled to Vote Regarding Non-Tenure Track Lawyering Skills Faculty Personnel Matters*. Subject to the provisions of Section 3.4(7) of the Law School Bylaws,[38] any member of the tenure-track faculty and any clinical faculty member shall be entitled to vote on initial appointments, reappointments, promotions, or terminations regarding lawyering skills faculty. In addition, members of the non-tenure track lawyering skills faculty with ranks equal to or senior to the rank of the non-tenure track lawyering skills faculty member under consideration shall be entitled to vote on initial appointments, reappointments, promotions, or terminations regarding non-tenure track lawyering[39] skills faculty.

D. *Lawyering Skills Faculty Appointment as Assistant Professor*. A lawyering skills faculty member appointed as assistant professor may receive two consecutive one (1) year

[38] Changed September 2015 to conform to amendments to main Bylaws.

[39] Corrected typographical error misspelling “lawyering” on September 30, 2015.

appointments, followed by a three (3) year appointment, if the appointment is renewed before the end of the one (1) year or three (3) year appointment periods.

If reappointment is not made before the end of the one (1) year or three (3) year appointment periods, the appointment shall terminate at the end of the current appointment term, subject to the notice provisions in the University Faculty Handbook.

E. *Lawyering Skills Faculty Promotion to Associate Professor*. Promotion to associate professor in the lawyering skills program results in an appointment for a five (5) year term.

Review for promotion to associate professor in the lawyering skills program shall ordinarily be done in the spring of the lawyering skills faculty member's fourth year as assistant professor by the Promotion and Tenure Committee, which shall transmit its recommendation to the faculty for a vote.

If an assistant professor is not promoted to associate professor, that faculty member's appointment shall terminate at the end of the current appointment term, subject to the notice provisions in the University Faculty Handbook.

F. *Lawyering Skills Faculty Promotion to Professor*. Promotion to professor in the lawyering skills program results in an appointment for a five (5) year term, with possible renewals for subsequent five (5) year terms as specified in article V of these policies.

Review for promotion to professor in the lawyering skills program shall ordinarily be done in the spring of the faculty member's ninth year by the Promotion and Tenure Committee, which shall transmit its recommendation to the faculty for a vote.

If an associate professor in the lawyering skills program is not promoted to professor, that faculty member's appointment shall terminate at the end of the current appointment term, subject to the notice provisions in the University Faculty Handbook.

G. *Special Faculty Positions*. Notwithstanding any of the above provisions in this article IV, the Dean, in consultation with the Appointments Committee and the full faculty, shall have flexibility to create continuing, special faculty positions in the lawyering skills program when doing so is in the best interests of the School of Law.

V. *Reappointments of Non-Tenure Track Appointments of Lawyering Skills Professors*

In the spring of the fourth year of a faculty member's five (5) year appointment as a non-tenure track professor in the lawyering skills program, the Promotion and Tenure Committee shall review the faculty member's performance to ensure that the standards for appointment as professor continue to be met, and the Committee shall make a recommendation to the faculty on renewal of the lawyering skills faculty member's appointment. The faculty shall meet to vote on the recommendation, and reappointment shall occur upon a majority vote in favor of reappointment by the faculty members entitled to vote on such matters.

If a faculty member's appointment is not renewed before the end of the five (5) year appointment, the appointment shall terminate at the end of the current appointment term, subject to the notice provisions in the University Faculty Handbook.

VI. *Periodic Evaluations*

In addition to evaluations for promotion and renewal, all non-tenure track lawyering skills faculty members at the ranks of assistant professor and associate professor shall be given an annual performance evaluation by the Promotion and Tenure Committee for the purpose of assisting the faculty member in achieving levels of performance sufficient to warrant promotion to associate professor or professor, as appropriate. Evaluations of special lawyering skills faculty shall be done by the Dean or his designee as appropriate to the nature of the appointment, but shall occur not less than once per year.

VII. *Procedures for Termination of Appointment*

Any lawyering skills faculty appointment may be terminated before the end of the current appointment period 1) for just cause as defined in the Faculty Handbook Chapter 3, Part One, Section I.E.3. and 2) for serious failure to meet the continuing performance obligations set forth in article X below; or 3) pursuant to a faculty vote pertaining to reduction in staff as set forth in article VIII below and pursuant to the applicable Faculty Handbook provisions.

In the case of non-tenure track lawyering skills faculty, if the Dean or a majority of the voting faculty entitled to vote on appointments, reappointments and promotions of the individual in question determines that mid-term termination of appointment should be considered, the matter shall be referred to the Promotion and Tenure Committee for review and recommendation to the faculty. Following receipt of the recommendation of the Promotion and Tenure Committee if a majority of faculty members entitled to vote on such matters finds that sufficient cause exists for termination, the faculty member' s appointment shall be terminated, subject to the notice provisions in the University Faculty Handbook.

VIII. *Termination or Substantial Modification of the Lawyering Skills Program*

If the lawyering skills program is terminated or substantially modified by the faculty in a way that requires a reduction in the need for lawyering skills faculty, any member of the lawyering skills faculty may be terminated regardless of years of service or rank, subject to the notice provisions in the University Faculty Handbook.

If a majority of persons entitled to vote on such matters approves a reduction in lawyering skills faculty size, the reduction shall be accomplished in order of ascending rank (i.e., lowest rank first) or in order of years of service within a rank (i.e., least years of service first).

IX. *Standards of Performance: Lawyering Skills Faculty*

A. *In General*. Standards for reappointment and promotion of non-tenure track lawyering skills faculty require effective teaching and institutional service. Standards for reappointment of special lawyering skills faculty require effective teaching.

B. *Teaching Effectiveness*. Teaching ability is the primary factor to be considered in evaluating lawyering skills faculty for hiring, reappointment, and promotion. Lawyering skills faculty who are candidates for reappointment or promotion should demonstrate steady progress towards excellence in achieving the goals of teaching lawyering skills — to begin to instill in students the habits of competent and effective performance of the lawyering skills taught in their courses, including to the extent applicable: 1) clear exposition, careful research, rigorous analysis; 2) thorough preparation; 3) effective interviewing, fact gathering, counseling, negotiation and oral presentation; 4) written and oral examination and advocacy; and 4) honest self-criticism. Faculty members in the lawyering skills program should perform proficiently in one-to-one interaction, small group and classroom teaching.

C. *Service to the University, the Profession, and the Community*. Non-tenure track lawyering skills faculty will be called upon to engage in service to the law school or University—for example, in administrative or committee work. In addition, they may be asked to engage in public service—for example, organizing or appearing in continuing legal education programs or programs presented to non-lawyer community or educational groups, and providing service in other community groups such as boards of directors or legal bodies. Lawyering skills faculty are expected to perform such services satisfactorily.

Extraordinary performance of service is an important factor in promotion or reappointment decisions, but it will not justify promotion or reappointment if a lawyering skills faculty member has not demonstrated effective teaching ability.

D. *Capacity to Collaborate with Colleagues*. A candidate for reappointment or promotion in the lawyering skills program shall demonstrate that he or she works well with colleagues, including the person or persons responsible for administering the lawyering skills program, and that he or she has the inclination to continue to do so.

X. *Continuing Performance Obligations*

Throughout the term of any lawyering skills faculty member's appointment, the lawyering skills faculty member is expected to continually improve his or her performance under the performance standards articulated in these policies and procedures.

XI. *Application to incumbent Legal Analysis and Writing Faculty*

Legal Analysis and Writing faculty who are employed as full-time non-tenure track faculty by the School of Law when these policies and procedures are adopted shall be evaluated and may be appointed to an initial three (3) year appointment term at a rank that is warranted under these policies and procedures; provided, that no Legal Analysis and Writing faculty member shall receive a rank or appointment term less than that under which that faculty member is currently employed. After the expiration of the initial three (3) year appointment, any such faculty member may be eligible for reappointment at the rank and for the appointment term provided under these policies and procedures.

APPENDIX D

POLICIES AND PROCEDURES FOR OTHER NON-TENURE TRACK FACULTY

School of Law, Case Western Reserve University

I. *Introduction*

These policies and procedures outline the rights and responsibilities of the non-tenure track faculty of the Case Western Reserve University School of Law whose primary appointments are not in the Clinical or the Case*Arc* Integrated Lawyering Skills Program. However, under the limited circumstances described below and for limited duration, a Professor from Practice may receive a primary appointment in the clinical program. These policies and procedures describe the process for hiring, evaluating, promoting, reappointing, and terminating members of such non-tenure track faculty. Nothing in these policies and procedures limits the inherent right of the faculty to control the content and approach of the program taught by non-tenure track faculty.

II. *Obligations of the Non-Tenure Track Faculty*

In general, the obligations of the non-tenure track faculty to the institution are teaching and institutional service.

III. *Specifications of Rank and Title*

A. Except as otherwise provided in Section III.B., non-tenure track faculty (other than Clinical and Lawyering Skills faculty) shall have the rank and title "Senior Instructor in Law."

B. *Professors from Practice.* Prominent and accomplished candidates who possess significant expertise or other valuable qualities obtained while engaged in at least 10 years of law practice may be appointed as "Professors from Practice," with the university rank of "Senior Instructor in Law." Professors from Practice may be appointed to teach any course in the law school curriculum for which they

are qualified. Professors from Practice may be appointed or reappointed only under extraordinary circumstances. This type of appointment is an exception to the general policy that clinical faculty shall be appointed to positions on the tenure track.

IV. *Procedures for Appointment, Evaluation and Reappointment*

A. *Hiring*. All hiring decisions of non-tenure track faculty shall be pursuant to a recommendation by the Appointments Committee and a majority vote of the faculty entitled to vote on the issue.

B. *Reappointment Decisions*. The Promotion and Tenure Committee (or such other committee designated for this purpose) has responsibility for making recommendations to the faculty regarding reappointment of non-tenure track faculty in accordance with these policies and procedures. All reappointment decisions shall be made pursuant to a majority vote by the faculty members entitled to vote, following review by the Promotion and Tenure Committee.

C. *Persons Entitled to Vote Regarding Non-Tenure Track Faculty Personnel Matters*. Any member of the tenure-track faculty and any clinical and lawyering skills faculty member shall be entitled to vote on initial appointments, reappointments, or terminations regarding non- tenure track faculty.

D. *Initial Appointment*. A non-tenure track faculty member shall be appointed to a three (3) year term. If reappointment is not made before the end of the three (3) year appointment period, the appointment shall terminate at the end of the academic year following the end of the initial appointment term, subject to the notice provisions in the University Faculty Handbook.

E. *Reappointment*. Review for reappointment of a non-tenure track faculty member shall ordinarily be done by the Promotion and Tenure Committee during the third year of the non- tenure track faculty member's appointment. The Promotion and Tenure Committee shall transmit its recommendation to the faculty for a vote. The faculty shall meet to vote on the recommendation, and

reappointment shall occur upon a majority vote in favor of reappointment by the faculty members entitled to vote on such matters. If a non-tenure track faculty member is not reappointed, that faculty member's appointment shall terminate at the end of the academic year following the end of the current appointment term, subject to the notice provisions in the University Faculty Handbook.

V. *Periodic Evaluations*

In addition to evaluations for renewal, all non-tenure track faculty members shall be given an annual performance evaluation by the Promotion and Tenure Committee for the purpose of assisting the faculty member in achieving levels of performance sufficient to warrant reappointment.

VI. *Procedures for Termination of Appointment*

Any non-tenure track faculty appointment may be terminated before the end of the current appointment period: (1) for just cause as defined in the Faculty Handbook Chapter 3, Part One, Section I.E.3. and (2) for serious failure to meet the continuing performance obligations set forth in article VIII below. In the case of non-tenure track faculty, if the Dean or a majority of the voting faculty entitled to vote on appointments and reappointments of the individual in question determines that mid-term termination of appointment should be considered, the matter shall be referred to the Promotion and Tenure Committee for review and recommendation to the faculty. Following receipt of the recommendation of the Promotion and Tenure Committee, if a majority of faculty members entitled to vote on such matters finds that sufficient cause exists for termination, the faculty member' s appointment shall be terminated, subject to the notice provisions in the University Faculty Handbook.

VII. *Standards of Performance for Non-Tenure Track Faculty*

A. *In General*. Standards for reappointment of non-tenure track faculty require effective teaching and institutional service.

B. *Teaching Effectiveness*. Teaching ability is the primary factor to be considered in evaluating non-tenure track faculty for appointment and reappointment. Non-tenure track faculty who are candidates for reappointment should demonstrate steady progress toward excellence in teaching.

C. *Service to the University, the Profession, and the Community*. Non-tenure track faculty will be called upon to engage in service to the law school or University—for example, in administrative or committee work. In addition, they may be asked to engage in public service— for example, organizing or appearing in continuing legal education programs or programs presented to non-lawyer community or educational groups, and providing service in other community groups such as boards of directors or legal bodies. Non-tenure track faculty are expected to perform such services satisfactorily. Extraordinary performance of service is an important factor in reappointment decisions, but it will not justify reappointment if a non-tenure track faculty member has not demonstrated effective teaching ability.

VIII. *Continuing Performance Obligations*

Throughout the term of any non-tenure track faculty member's appointment, the faculty member is expected to continually improve his or her performance under the performance standards articulated in these policies and procedures.