

## **Guidelines for Reappointment and Promotion to Full Rank of Clinical Faculty (revised April 29, 2011)**

### 1. *Substantive Criteria for Reappointment and Promotion to Full Rank of Clinical Faculty in the School of Law*

#### a. *Introduction*

Indiana University Maurer School of Law is dedicated to providing the highest quality professional education to those who wish to practice law in any common-law jurisdiction, to those who will become judges, legislators, and administrators, to those who plan to use their education in law as general background for a career in another field, and to those who will themselves become teachers and scholars of the law. We are dedicated to critical analysis of the law and its foundations, to pushing back the boundaries of ignorance about law, its nature, functions, and limits, and to sharing new insights with the scholarly and professional communities. And we are dedicated to using our resources to provide high quality service to the University, professional societies, the state, and the nation.

In providing such a professional education to our students, the School of Law strives to meet the following seven goals:

- i. To assure that our students develop critical thinking and legal analysis skills;
- ii. To assure that our students can express their legal analysis and conclusions through skillful and sophisticated written work;
- iii. To assure that our students possess the ability to perform accurate and comprehensive legal research;
- iv. To assure that our students acquire a broad-based substantive legal education;
- v. To assure that our students learn about the methodology of at least one other academic discipline as it relates to the law;
- vi. To assure that our students understand and respect the ethical obligations of attorneys; and
- vii. To assure that our students have an adequate opportunity to obtain essential skills training in specific practice-related areas, such as negotiations, trial and appellate advocacy, mediation, interviewing, and counseling.

The School of Law believes that clinical education can significantly enhance the fulfillment of these goals. The following substantive criteria for reappointment and Promotion to Full Rank of clinical faculty members reflect the expectation that

clinical faculty members will make high quality contributions to the teaching and service missions of the School of Law, and are designed to ensure that clinical education in the School of Law will be of the highest possible quality.

Clinical faculty are expected to be sound and effective law teachers. The primary criterion of success in clinical teaching is excellence in helping students learn professional skills and develop values appropriate to their professional responsibilities. High-quality performance in classroom instruction, individual sessions with students, and supervision in the courtroom and other practice environments is essential to sound and effective law teaching for clinical faculty.

Like non-clinical faculty members at the School of Law, clinical faculty are expected to possess the intellectual capability and thoughtful cast of mind to engage in critical analysis of the law and its foundations, to push back the boundaries of ignorance about law, its nature, functions, and limits, and to share new insights with the scholarly and professional communities.

Included within the scope of sound and effective law teaching for clinical faculty members are the development of successful clinical courses and materials for use in such courses; the development and use of particularly innovative clinical teaching methods; the publication of works that explore aspects of clinical education; the publication of teaching-related works; and any other activities that enhance the quality of clinical education.

b. *Service*

Clinical faculty members are expected to engage in valuable service to the Law School, the University, and the community. Examples of such service may include participating in valuable, high quality efforts at law reform; engaging in unusually effective advocacy before courts and other decision-making bodies; writing and publishing works of legal scholarship (these may depart from conventional models of legal scholarship by, for example, addressing issues related to clinical instruction or legal practice); contributing to the continuing education of lawyers by preparing practice manuals or CLE materials, or by developing, supervising, or teaching in high-quality CLE programs; and making other exemplary contributions to the development of the legal system or the profession.

To the extent that a clinical faculty member has administrative responsibilities within a clinic, he or she is expected to be effective in carrying out those responsibilities. Such responsibilities may include, but are not limited to: managing and supervising staff attorneys who work in the clinic; managing the caseload of the clinic (as if the clinic were a law office); planning and administering the clinic's budget; and working to establish and maintain good relations with lawyers and judges in the community served by the clinic.

The external responsibilities of clinical faculty often may make it difficult for clinical faculty to engage in traditional forms of faculty participation in the institutional life of the Law School. Consequently, although clinical faculty are

eligible to participate in traditional forms of service within the Law School, *e.g.*, service on most Law School faculty committees, they need not establish strong records of such traditional service in order to be reappointed or Promoted to Full Rank. Efforts to maintain or improve the favorable reception of clinical programs in the community will be credited as service to the Law School. Service of this kind, however, is of secondary importance as a standard for the advancement of clinical faculty members.

2. *Standards for Reappointment and Promotion to Full Rank of Clinical Faculty Members*

a. *General Considerations*

- i. *General expectations.* The School of Law expects clinical faculty members to make high quality contributions in both teaching and service. Normally, the School of Law anticipates that a clinical faculty member will excel in teaching and render at least satisfactory performance in service. Satisfactory performance is not merely minimally competent performance, but rather performance that is satisfactory in the context of a first-rate university law school. The School of Law's procedures for reappointment and Promotion to Full Rank, as set forth in the *Procedural Criteria for Appointment, Reappointment, and Promotion to Full Rank of Clinical Faculty in the School of Law*, are designed to ensure the excellence of our clinical faculty.
- ii. *Number of critical evaluation stages.* Clinical faculty members are normally appointed with the rank of Clinical Associate Professor. During a probationary period not to exceed seven years, the Clinical Associate Professor will be reviewed annually for reappointment within the rank of Clinical Associate Professor. No later than the sixth year of service, the clinical faculty member will be considered for Promotion to Full Rank of Clinical Professor, which carries with it the security of a five-year renewable contract. The decision of when to consider a particular clinical faculty member for Promotion to Full Rank will be made by the Clinical Faculty Review Committee and the Dean, after consultation with the clinical faculty member involved.
- iii. *Nonexclusivity of specific standards.* The specific standards that appear in each of the following sections, although normally applicable, do not exhaust all possible models of clinical teaching and service sufficient to qualify a clinical faculty member for Promotion to Full Rank. A candidate who does not satisfy these standards normally will not qualify for such Promotion, but exceptional cases may arise in which the candidate's special contributions to clinical teaching and service may justify Promotion.

b. *Specific Standards for Teaching*

i. *Promotion to Full Rank of Clinical Professor (with long-term contract):*

- (1) *Outstanding.* Teaching will be evaluated as outstanding if a candidate has demonstrated an exceptional ability and the promise of continuing excellence in helping students learn professional skills and develop values appropriate to their professional responsibilities.

Adherence to any particular clinical teaching method is not required. Factors to be considered include, but are not limited to, the following:

- (a) Substantive knowledge of the relevant subject matter;
- (b) Analytical skills;
- (c) Teaching skills and performance (i.e., the ability to challenge and motivate students, to direct and control a class, to direct and control field work, and to use imaginative teaching techniques);
- (d) Originality and creativity;
- (e) Importance of pedagogical contributions to the field of clinical education, either within Indiana University School of Law - Bloomington or beyond;
- (f) Ability to communicate effectively and persuasively;
- (g) Exemplary preparation efforts; and
- (h) Evidence of improvement;

- (2) *Satisfactory.* Teaching will be evaluated as satisfactory if, on the basis of the same criteria as specified above for an outstanding evaluation, a candidate has demonstrated a high degree of competence and promise in teaching.

ii. *Reappointment within rank as Associate Clinical Professor (during probationary period)*

For reappointment within rank as Associate Clinical Professor, during the probationary period, a candidate must demonstrate satisfactory clinical teaching on the same criteria as specified above for Promotion to Full Rank of Clinical Professor.

c. *Specific Standards for Service*

- i. *Background Considerations:* Service includes service to the School of Law, to the University, to the professions of law or law teaching, and to the national, state, or local communities. Only in rare instances could a clinical faculty member combine such extraordinary internal service and very significant professional service with sufficiently satisfactory teaching to justify Promotion to Full Rank of Clinical Professor on the basis of outstanding service.

In addition, as noted above, the external responsibilities of clinical faculty often make it difficult for clinical faculty to engage in traditional forms of faculty participation in the institutional life of the Law-School. Consequently, clinical faculty members need not establish strong records of such traditional service, e.g., on faculty committees, in order to be reappointed or Promoted to Full Rank. Efforts to maintain or improve the favorable reception of clinical programs in the community will be credited as service to the Law School. Service of this kind, however, is of secondary importance as a standard for the advancement of clinical faculty members.

ii. *Promotion to Full Rank of Clinical Professor (with long-term contract)*

- (1) *Outstanding.* Service will be evaluated as outstanding if a candidate has rendered, and seems likely to continue to render, service deemed to be of extraordinary quality and , exceptional merit and value. Such service may be within the Law School or the University, assuming it is over and above the satisfactory performance of routine service functions or may be outside of the Law School or the University.
- (2) *Satisfactory.* Service will be evaluated as satisfactory if a candidate has rendered, and seems likely to continue to render, useful service. Such service may be within the Law School or the University, or may be in other equivalent service functions outside of the Law School or the University.

iii. *Appointment within rank as Associate Clinical Professor (during probationary period)*

For reappointment within rank as Associate Clinical Professor, during the probationary period, a candidate must demonstrate satisfactory service on the same criteria as specified above for Promotion to Full Rank of Clinical Professor.

3. *Standards for Reappointment of Clinical Faculty After Promotion to Full Rank*

After Promotion to Full Rank, all clinical faculty members shall be employed under long-term contracts with a duration of five years. Under University policies applicable to clinical faculty, a clinical faculty member who has achieved Promotion to Full Rank and who is employed under such a long-term contract may not be dismissed during the five-year period of the contract, except for the following reasons:

- Closure or permanent down-sizing of the clinical program within which the clinical faculty member teaches and serves;
- Professional, incompetence;
- Serious misconduct; or
- Financial exigency.

Under University policies applicable to clinical faculty, a clinical faculty member who has achieved Promotion to Full Rank and who is employed under such a long-term contract

shall, upon the expiration of the contract, be reappointed to another five-year contract, except for the following reasons:

- Closure or permanent down-sizing of the clinical program within which the clinical faculty member teaches and serves;
- Professional incompetence;
- Serious misconduct;
- Financial exigency; or
- Changing staffing needs of the clinical program within which the clinical faculty member teaches and serves.

The School of Law's procedures for the reappointment of clinical faculty members who have already achieved Promotion to Full Rank are set forth in the *Procedural Criteria for Appointment, Reappointment, and Promotion to Full Rank of Clinical Faculty in the School of Law*.

4. *Procedural Criteria for Appointment, Reappointment, and Promotion to Full Rank of Clinical Faculty in the School of Law*

Note: Where specific dates are indicated they are guidelines which will be followed whenever possible. However, some variation may be required by circumstances such as deadlines imposed by University procedures.

a. Procedures for Promotion to Full Rank of Clinical Faculty

- i. No later than June 1 of each year, the Dean, in consultation with the Policy Committee, shall appoint a Clinical Faculty Review Committee (hereafter the Committee), consisting of three or more faculty members with either tenure and full rank (for non-clinical faculty members) or long-term contracts and full rank (for clinical faculty members). This Committee shall be responsible for making initial recommendations on the Appointment, Reappointment, and Promotion to Full Rank of clinical faculty members.
- ii. The Committee, in conjunction with the Dean, shall determine which clinical faculty members are to be considered for Promotion to Full Rank during the fall semester. It shall be the privilege of any faculty member (including clinical and non-clinical faculty members) to submit a recommendation to the Dean concerning the Promotion to Full Rank of any clinical faculty member, including the person making the recommendation.
- iii. A member of the Committee shall be assigned the responsibility of assembling a file for each clinical faculty member subject to review. This member shall ensure that a complete and thorough file is developed and that the specified procedures are followed, and shall present the clinical faculty member's file to the Committee and, if requested by the Committee and Dean, to the Promotion and Tenure Committee.
- iv. As soon as the Committee and Dean have jointly determined which clinical faculty members are to be reviewed, the Dean shall notify each such clinical

faculty member in writing that he or she is under review and that within a specified and reasonable period of time the clinical faculty member may submit materials which it is believed will be relevant to a consideration of his or her professional qualifications. Copies of these *Guidelines*, and of the appropriate University guidelines for clinical faculty members, shall be provided the clinical faculty member. All members of the permanent faculty (including clinical and non-clinical faculty members) shall also be informed, and shall be invited to submit any statements they may desire.

- v. The Committee shall compile a complete file on each clinical faculty member under consideration. The content of the file shall consist of such materials as shall be determined by the Committee, after consultation with the clinical faculty member under consideration, including, but not necessarily limited to, the following:
  - (1) All materials submitted by the clinical faculty member pursuant to (4) above;
  - (2) The clinical faculty member's own statement about teaching and service activities;
  - (3) The factual data on the clinical faculty member's teaching and service activities;
  - (4) A summary of teaching evaluations by students. Faculty members eligible to vote on the Promotion to Full Rank shall have access to the individual evaluations;
  - (5) The results of interviews with students;
  - (6) Peer evaluations of teaching, by faculty members (clinical or non-clinical) assigned to visit the clinical faculty member's classes, and by faculty members (clinical or nonclinical) who have taught jointly with the clinical faculty member or who otherwise have knowledge of his or her teaching competence;
  - (7) Evaluations of the quality of the clinical faculty member's service activities, whether inside or outside of the University, by professional colleagues at Indiana University or by associates in the service activity;
  - (8) Evaluations of the clinical faculty member's teaching and service activities by outside referees as the Committee and Dean deem appropriate. The outside referees shall be selected from among judges, lawyers, and other professionals in the community who are familiar with the activities of the clinic(s) within which the clinical faculty member teaches and serves. The review must include at least four outside. evaluations. If the clinical faculty member wishes to do so, he or she may submit a list of outside referees to the Committee, and the Committee shall independently compile its own list. Both lists shall contain statements describing why each individual was

selected as a referee and the relationship of that person to the clinical faculty member. In lieu of or in addition to submitting a list of outside referees, the clinical faculty member may request that certain persons not serve as referees and may give reasons for this request, but such a request shall not be binding on the Dean. The Dean, with the advice of the Committee, will select names from the list(s) of recommended referees. If the clinical faculty member has submitted an appropriate list of referees, the Dean shall, if practicable, select the referees so that half are drawn from the clinical faculty member's list and half from the Committee's list. The Dean will solicit the desired evaluations, and they will become part of the file;

- (9) Peer evaluations of all pedagogical or scholarly publications, by faculty members (clinical or non-clinical) assigned to review them and by outside referees as the Committee and Dean deem appropriate. The review must include at least four outside evaluations. If the clinical faculty member wishes to do so, he or she may submit a list of outside referees to the Committee, and the Committee shall independently compile its own list. Both lists shall contain statements describing why each individual was selected as a reference and the relationship of that person to the clinical faculty member. In lieu of or in addition to submitting a list of outside references, the clinical faculty member may request that certain persons not serve as referees and may give reasons for this request, but such a request shall not be binding on the Dean. The Dean, with the advice of the Committee, will select names from the list(s) of recommended referees. If the clinical faculty member has submitted an appropriate list of referees, the Dean shall, if practicable, select the referees so that half are drawn from the clinical faculty member's list and half from the Committee's list. The Dean will solicit the desired evaluations, and they will become part of the file;
  - (a) The pedagogical and scholarly publications to be evaluated for the purpose of Promotion to Full Rank will normally include all those accepted for publication (or accepted for distribution, in the case of non-published works) by September 15 of the academic year in which the decision is being made;
  - (b) The Dean and Committee shall attempt to group the clinical faculty member's publications in appropriate units so that the evaluators can consider the clinical faculty member's entire output in a given area;
  - (c) All referees shall be given a copy of the *Substantive Criteria for Appointment, Reappointment, and Promotion to Full Rank of Clinical Faculty in the School of Law*, the candidate's curriculum vitae, all the materials to be reviewed by the particular referee, and an option to receive the candidate's other publications.
- vi. The Committee or a member designated by the Committee shall inform the clinical faculty member from time to time regarding the development of the file and shall involve the clinical faculty member as far as possible in the

development of the file. The clinical faculty member shall have the right to examine all parts of the file at any time, including each letter as soon as it becomes available.

- vii. The Committee shall decide whether an affirmative recommendation on Promotion to Full Rank is to be made to the Promotion and Tenure Committee, and shall prepare a written Report containing a review of the candidate's achievements in the areas of teaching and service, with an indication of the recommendation of the Committee. Following receipt of either a positive or negative recommendation from the Committee (unless the clinical faculty member withdraws), the Dean shall immediately refer the recommendation and Report, along with the complete file, to the Promotion and Tenure Committee for its consideration. The recommendation and Report shall also be made available to the candidate.
- viii. As soon as practicable, the Promotion and Tenure Committee shall decide whether an affirmative recommendation on Promotion to Full Rank is to be made to the faculty, and shall supplement the Report with an indication of the recommendation of the Promotion and Tenure Committee. Following receipt of either a positive or negative recommendation from the Promotion and Tenure Committee (unless the clinical faculty member withdraws), the Dean shall then promptly call a meeting of the appropriate members of the permanent faculty; this shall include all non-clinical faculty members with tenure and full rank, and all clinical and lecturer faculty members with long-term contracts and full rank. The Report, including the recommendations of both the Committee and the Promotion and Tenure Committee, shall be made available to faculty members voting on Promotion to Full Rank at least seven days in advance of the meeting. The Report and recommendations shall also be made available to the candidate at least seven days in advance of the meeting.
- ix. As soon as practicable after the meeting of the appropriate members of the permanent faculty, the Dean shall prepare his or her recommendation. The recommendation is to be made available to faculty members who were eligible to participate in the meeting. Faculty members who were eligible to participate in the meeting may, if they so desire, prepare an additional statement of their views to supplement the candidate's file, which statement, if prepared in time, shall be sent to the Dean of Faculties as part of the complete file.
- x. As soon as practicable after the faculty deliberations on Promotion to Full Rank, the Dean shall inform the clinical faculty member of the action of the faculty, and of his or her intended action or recommendation, if any. If the result is a negative recommendation on Promotion to Full Rank by either the faculty or the Dean, the faculty member shall be provided with a written statement fully explaining his or her rights according to University policies. In the case of such a negative recommendation, upon written request submitted to the Dean within 30 days of reasonable notification thereof, the Dean will provide the clinical faculty member within a reasonable period of time with a written statement of the reasons for the recommendation. The clinical faculty member may request

reconsideration of a negative recommendation; if not satisfied with the Law School's action, the clinical faculty member has recourse to the review mechanisms specified by University policies.

b. *Procedures for Reappointment of Clinical Faculty after Promotion to Full Rank*

After Promotion to Full Rank, all clinical faculty members shall be employed under long-term contracts with a duration of five years. According to the *Substantive Criteria for Appointment Reappointment, and Promotion to Full Rank of Clinical Faculty in the School of Law*, as well as University policies, a clinical faculty member who has achieved Promotion to Full Rank and who is employed under such a long-term contract may be dismissed during the term of the contract because of closure or permanent down-sizing of the clinical program in which the clinical faculty member teaches and serves; otherwise, however, dismissal of such a clinical faculty member shall occur only for reasons of professional incompetence, serious misconduct, or financial exigency. Non-reappointment decisions, made at the time of expiration of a clinical faculty member's current long-term contract, may occur for the foregoing reasons, or may occur as well by reason of changing staffing needs of the clinical program.

All decisions on dismissal or non-reappointment of clinical faculty members who have achieved Promotion to Full Rank shall be made by the Dean after consultation with the Policy Committee. If the decision on dismissal or non-reappointment is based on the clinical faculty member's professional incompetence or serious misconduct, the Dean may request that the Clinical Faculty Review Committee compile relevant information about the clinical faculty member and supply such information to the Dean and the Policy Committee. In the event of a decision by the Dean to dismiss a clinical faculty member who has achieved Promotion to Full Rank, or not to reappoint such a clinical faculty member to another long-term contract, the Dean shall notify the clinical faculty member of that decision as soon as possible. The Dean shall also inform the clinical faculty member of his or her rights, including all of the available review mechanisms specified by University policies; the jurisdiction of campus faculty grievance institutions extends to all cases of dismissal and non-reappointment of clinical faculty members.

c. *Procedures for Reappointment of Clinical Faculty During Probationary Period*

Probationary appointment is the name given to the period of employment of a permanent clinical faculty member who has not yet achieved Promotion to Full Rank; this probationary period may last no longer than seven years. Even though a clinical faculty member on probationary appointment does not have the security of a long-term contract, there are certain other protections against arbitrary administrative action. Specifically, depending upon the number of years of academic service at Indiana University an individual has, there are varying notice requirements if the individual's services are to be terminated. In the first year of service, notice of non-reappointment must be given three months before the termination of a one-year contract; in the second year of service, notice of non-reappointment must be given by November 15 if the appointment expires at the end of that academic year; and in the third and later years, twelve months' notice is required.

- i. At the beginning of each academic year (by October 1), the Dean will inform the Clinical Faculty Review Committee (hereafter the Committee) of the names of those clinical faculty members on probationary appointment whose appointments expire in the current academic year (if on a terminal contract and in their first or second year of service) or in the following academic year.
- ii. The Dean will notify each such clinical faculty member that he or she is under such consideration, and that within a properly specified and reasonable period the clinical faculty member may submit material which is believed will be relevant to a consideration of his or her professional qualifications.
- iii. Since reappointment is procedurally separate from Promotion to Full Rank, the extent of formal file preparation and Committee review required for reappointment will vary depending on whether the appointee is being or has recently been reviewed for Promotion to Full Rank. The extent of the review necessary will be determined in each case by the Committee in conjunction with the Dean.
- iv. The Committee will make its recommendations to the Dean in timely fashion, having in mind the deadlines for notice stated above. Upon receipt, the University timetable of deadlines will be provided the Committee for its adherence.
- v. If the Committee recommends reappointment and the Dean concurs, the Dean shall proceed with the reappointment. If the Committee recommends non-reappointment or if the Dean disagrees with an affirmative Committee recommendation, the matter shall be presented to the appropriate members of the permanent faculty, including those with tenure and full rank (for non-clinical faculty members) and those with long-term contracts and full rank (for clinical faculty members), for their advice. The vote of the faculty shall be included as part of the Dean's report and the recommendation on the reappointment..
- vi. In the event of a decision not to recommend reappointment of a clinical faculty member on probationary status, the Dean shall notify the clinical faculty member of that decision as soon as possible and shall inform the clinical faculty member of the review procedures as specified by University policies. A copy of these University policies shall be furnished to the clinical faculty member.

d. *Annual Review of Clinical Faculty*

Pursuant to University policies, the Dean conducts annual reviews of all clinical faculty members subject to reappointment decisions or decisions on Promotion to Full Rank. These reviews are usually conducted at the end of the academic year. It is the purpose of the annual review to inform the clinical faculty member of all matters relevant to eligibility for reappointment and Promotion to Full Rank. The clinical faculty member is to cooperate with the Dean to ensure that the file on which such a review is based contains all relevant materials. A written statement summarizing the substance of each annual review shall be kept in the clinical faculty member's file, and a copy given to the

clinical faculty member. The Clinical Faculty Review Committee (hereafter the Committee) and other faculty members (clinical or non-clinical) will assist the Dean in the implementation of the annual review process. The Dean will appoint one or more faculty member(s) from the Committee who will have the chief responsibility of collecting all materials relevant to the annual review. The faculty member(s) and the Committee will then consult with the Dean concerning matters which should be discussed during the annual review process. It is anticipated that the annual review process will involve class visitation, the examination of teaching evaluation forms completed by students, the reading of any publications, and consideration of evidence of service. The materials collected for purposes of the annual review will also be used for decisions on reappointment and Promotion to Full Rank.

e. *Procedures for Appointment of New Clinical Faculty*

Whenever a vacancy occurs, or seems likely to occur, among clinical faculty members at the Law School, the Dean shall inform the Clinical Faculty Review Committee (hereafter the Committee) of the possible need to appoint a new clinical faculty member. The Committee shall undertake to identify the best available candidate(s) to fill the vacancy, operating in a manner similar to that of the Appointments Committee with respect to the appointment of new non-clinical faculty members. After identifying the best available candidate(s) to fill the vacancy the Committee shall make its recommendation to the faculty. The Committee's recommendation may include the possibility of reducing or eliminating the standard probationary period for the new clinical faculty member, if the Committee concludes that the new clinical faculty member already satisfies some or all of the substantive criteria for Promotion to Full Rank; before making such a special recommendation, however, the Committee shall prepare and distribute to the faculty a complete file, comparable in content to the file described above in the *Procedures for Promotion to Full Rank of Clinical Faculty*, containing all of the relevant information on which the Committee's special recommendation is based. upon receipt of the recommendation of the Committee, the Dean shall promptly call a meeting of the appropriate members of the permanent faculty; this shall include all non-clinical faculty members with tenure or on the tenure track, and all clinical and lecturer faculty members with long-term contracts or in their probationary period. The deliberations and vote of the faculty on the appointment of a new clinical faculty member shall be conducted in the same manner as for the appointment of new non-clinical faculty members.