

## **Revised Standards for Tenure (approved May 2013)**

For Assistant Professors Appointed After January 1, 2013

The University of Texas School of Law

1. The initial appointment of an assistant professor is for a term of six years. The Dean and the assistant professor may agree to count time in rank at another institution. A tenure recommendation will be made in the final year of this term.<sup>1</sup>

Cases considered before the sixth year in rank are early and should be treated as exceptional cases. The Tenure committee must concur in a candidate's decision to seek tenure early. Consistent with University rules, the exceptional circumstances that support a candidate's decision to seek tenure early must be explained in the committee's and dean's statements to the Provost supporting the tenure recommendation.

In the final year of an assistant professor's term, a decision not to grant tenure is accompanied by reappointment at the same rank for an additional year beyond the original term and will be accompanied by notice that the additional year is the terminal academic year of appointment.

2. The recommendation for or against tenure is based on scholarship, teaching, and service as set forth in Paragraphs 3 through 5. The Dean will meet once annually with each untenured faculty member to discuss his or her progress toward tenure and will memorialize the most significant issues emerging from that meeting in a written letter or report that is shared with the candidate and included in the candidate's tenure file. In the spring of the third year of the original term, the annual meeting will entail a formal interim review by the Tenure Committee in consultation with the Dean. This review will include a written evaluation of the candidate's scholarship, teaching, and service; it shall be made available to the candidate and placed in his or her tenure file.

3. Tenure is recommended only for candidates who have made important contributions to a relevant field of legal scholarship and who evince a high likelihood that they will continue to make important contributions to legal scholarship throughout their careers. A candidate's scholarship is an essential and the most significant component of the tenure review.

a. Quantitative Threshold for Consideration. Ordinarily, the evidence of an important contribution and future scholarly promise must include, at a minimum, three completed and substantial scholarly articles or their equivalent. "Substantial" refers to intellectual substance, not to length or genre. Each of these articles must be accepted for publication before the recommendation of tenure.

Publications that were largely completed before the author began work in residence at the Law School are of full evidentiary value on the ultimate question of whether the candidate will make important and continuing contributions to legal scholarship. But such publications presumptively do not count toward the quantitative threshold for consideration unless the candidate wrote the article while a tenure-track faculty member at another law school. This presumption can be overcome if the portion of the project completed during the candidate's tenure-track appointment constitutes a substantial scholarly contribution (such as the completion of a book) in and of itself.

b. Qualitative Judgment. The ultimate criteria for recommending tenure are whether, in the light of all available information (including the completed articles or their equivalent), the candidate's body of work is original, creative, and rigorous. There must also be compelling evidence that the candidate will continue to produce appropriate amounts of high-quality scholarship in the future. This evaluation is made, in part, by comparing the work of the candidate against that of successful scholars in the candidate's field and cohort.

c. Methods of Evaluation. Members of the Budget Council evaluate all of a candidate's

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<sup>1</sup> The central administration of the University determines the date by which this recommendation must be submitted. Historically, tenure recommendations have been due early in the fall semester.

scholarship, either by reading it, by relying upon the evaluations of persons with expertise in the subjects of the writings, or both. Outside evaluations of scholarship are solicited before a recommendation for or against tenure.

4. Tenure is recommended only for candidates who demonstrate proficiency in classroom teaching, including teaching that is thoughtful and stimulating.

a. Qualitative Assessment. Careful preparation, command of the subject taught, ability and desire to stimulate the thinking of students, and concern for students are all qualities that are considered in making tenure recommendations. A candidate's success in developing innovative classes or teaching methods, as well as other contributions the faculty member has made to the teaching mission of the school, are also considered in assessing their teaching proficiency.

b. Methods of Evaluation. The teaching of an untenured faculty member is evaluated by various means, including classroom visits by members of the Budget Council, student instructor surveys and averages, written student comments and evaluations, and reviews of the candidates' syllabi and other teaching materials. Candidates are free to supplement this information with videotapes of their classes.

5. All tenure candidates are expected to contribute to Law School governance and to the broader intellectual environment at the Law School. Contributions to the University and to the greater legal and educational community will also be considered favorably in evaluating a candidate's service contributions.

6. A recommendation for tenure requires a two-thirds vote of the Budget Council, determined under the Faculty Voting Rules as adopted from time to time. Any amendment to the Faculty Voting Rules shall take effect at the time determined by the faculty when adopting the amendments, except that each assistant professor shall have the right promptly to elect to be considered under the Faculty Voting Rules applicable to his or her case on the date on which the appointment-offer was made to the candidate.

7. Tenure is ultimately granted or denied by the Regents upon the recommendation of the senior administrative officers of the University. Upon the grant of tenure, an assistant professor is normally promoted to full professor.

8. Extensions of the tenure-track probationary period may be available pursuant to Regents' Rules and Regulations Rule 31007.

## Appendix: Rules of Thumb for Scholarly Productivity

The tenure standards ordinarily require three or more "completed and substantial scholarly articles or their equivalent." As indicated in the standards themselves, "substantial" refers to intellectual substance, not to length or genre. When these rules of thumb say that a type of publication presumptively "counts" or "does not count," they mean only that such a publication counts or does not count toward the usual quantitative threshold for consideration. It is important to state broad areas of agreement about what publications count for this purpose, both to guide untenured professors in their planning of projects and to guide the Budget Council in its quantitative evaluation of the work of each candidate for tenure.

The purpose of these rules of thumb is to reconcile the free and appropriate scholarly development of untenured professors with the necessities of evaluation before a recommendation for or against tenure. This faculty publishes its work in many genres and in the journals of several disciplines. Tenure guidelines should not force untenured professors into one or a few formats. In the interest of academic freedom and appropriate scholarly development, the Budget Council takes a broad view of what counts as a substantial scholarly article or equivalent. Unfortunately, some genres are inherently difficult to evaluate, and untenured professors should understand those difficulties.

1. An article or review essay in a law review, or a chapter in a collection of scholarly work, presumptively counts. There is no page requirement, but short book reviews, personal tributes, introductions, and short or descriptive notes on recent developments presumptively do not count.

2. An article published in a scholarly journal of a discipline other than law, conforming to the conventions of substantial articles in that discipline, presumptively counts towards the quantitative threshold provided the work overall contributes to a relevant field of legal scholarship.

3. CLE materials, legislative testimony, briefs, and essays or articles for the popular press presumptively do not count. If a substantial scholarly contribution is embedded in such a genre, the contribution should also be published in a conventional scholarly genre. Conventional publication will make the contribution more accessible to the discipline and more readily subject to fair evaluation.

4. Except as stated below, a first edition of a scholarly book presumptively counts as the equivalent of three law review articles. Such a book may count as the equivalent of more or fewer articles, depending on the amount of time reasonably consumed in its research and writing. An assistant professor who completes a book early in his or her term would be ill-advised to do no further research thereafter; such inactivity would raise obvious questions about commitment to continued scholarly activity.

5. Gathering and processing of original data, as in empirical, field, experimental, survey, or archival research, may require more time per article than library research, or a longer lead time before a book or series of articles can be completed. Assistant professors who engage in such research to satisfy tenure requirements should plan or design it so that it leads to substantial publication in a timely fashion.

6. Articles of unusual length or ambition, or reflecting unusually extensive or time-consuming research, may in appropriate cases count as the equivalent of more than one article.

7. Casebooks and edited works present the special problem that it is difficult to evaluate the original contribution of the editor. Such works sometimes count, but even so, the Budget Council may find it difficult to infer from such works a prediction "of important and continuing contributions to legal scholarship." Untenured professors would be ill-advised to make such works critical to their tenure decision.

8. Compilations of the author's previous publications presumptively do not count. Such compilations may count if there is sufficient original material in the compilation, but unless the original material is clearly identified as a separate chapter or the like, a claim of originality in such compilations is difficult to evaluate.

9. Second or subsequent editions of books may count as the equivalent of one article if they contain substantial revisions or new material.

10. A publication that substantially duplicates a previous publication, such as an article reprinted in a collection, or a printed version of a lecture or conference presentation based on a previous article, does not count. A publication that duplicates a previous publication in substantial part may be discounted proportionately. But this rule of thumb should not be applied in ways that penalize or discourage reasonable overlap among a series of related articles, each of which makes a distinct contribution to a continuing research agenda.

11. Co-authored work that counts under these rules of thumb may often count in full for each author, but such work presents special problems of evaluation. Untenured professors inclined to co-authored work should be encouraged to pursue it, both because collaboration often produces new insights that neither author would have reached alone, and because collaboration can help untenured professors develop their scholarly skills. Unfortunately, it is often difficult to evaluate for tenure purposes the separate contribution of each author. These evaluative problems are minimized when:

- a. the untenured co-author has also published single-authored work of comparable quality;
- b. the distinct disciplines or skills of each co-author make it easy to identify each co-author's principal contribution; or
- c. the co-authorship is a continuing collaboration among peers, so that the Budget Council may predict that the co-authors as a team will make "important and continuing contributions to legal scholarship."

Necessarily, the evaluative problems are increased when none of these conditions is met. Evaluative problems are maximized when the co-authors are a student or a very junior professor working with a teacher or other mentor. The junior author in such a collaboration may be a fully equal co-author, but the Budget Council has no reliable way to know whether this is true. Such collaborations can be highly valuable apprenticeships, but untenured professors would be ill-advised to make such a collaboration critical to their tenure decision.

12. An unpublished dissertation does not count, but books or articles derived from the dissertation count in full.

13. Forms and genres that count may evolve in light of changing disciplinary conventions and changing technology. These rules of thumb do not try to anticipate when or whether publication in electronic formats may become as visible and useful to legal scholars as publication in traditional books and journals. For example, with respect to annual and six-year reviews of tenured faculty, the law school currently considers blog posts to constitute service, but as blogs evolve, they may ultimately be considered to constitute scholarship.