

**LAW COLLEGE FACULTY HANDBOOK ON THE IMPLEMENTATION  
OF MICHIGAN STATE UNIVERSITY ACADEMIC POLICIES**

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1. This handbook contains University policies and Law College implementation practices in compliance with the requirements of University policies. The Law College Faculty and Dean may amend implementation practices so long as amendments are consistent with University policies. Other University policies may be found by referencing the MSU Faculty Handbook via the MSU HR homepage at <http://www.hr.msu.edu/hrsite/> and surveying the Handbook index.

## **LAW COLLEGE HANDBOOK ON THE IMPLEMENTATION OF MICHIGAN STATE UNIVERSITY ACADEMIC POLICIES**

*The office of the Dean shall be responsible for updating the Faculty Handbook and the faculty policies.*

### **UNIVERSITY ACADEMIC FREEDOM POLICY**

Michigan State University adheres to the principles of academic freedom with correlative responsibilities as stated by the American Association of University Professors, the Association of American Colleges and other organizations:

1. Teachers<sup>1</sup> are entitled to full freedom in research and in the publication of the results, subject to the adequate performance of their other academic duties; but research for pecuniary return should be based upon an understanding with the authorities of the institution.
2. Teachers are entitled to freedom in the classroom in discussing their subject, but they should be careful not to introduce into their teaching controversial matter which has no relation to their subject. Limitations of academic freedom because of religious or other aims of the institution should be clearly stated in writing at the time of the appointment.
3. College and university teachers are citizens, members of a learned profession, and officers of an educational institution. When they speak or write as citizens, they should be free from institutional censorship or discipline, but their special position in the community imposes special obligations. As scholars and educational officers, they should remember that the public may judge their profession and their institution by their utterances. Hence, they should at all times be accurate, should exercise appropriate restraint, should show respect for the opinions of others, and should make every effort to indicate that they are not speaking for the institution.<sup>2</sup>

<sup>1</sup>*The word "teacher" as used in this document is understood to include the investigator who is attached to an academic institution without teaching duties.*

<sup>2</sup>*1940 Statement of Principles on Academic Freedom and Tenure with 1970 Interpretive Comments," AAUP Policy Documents and Reports, 1995.*

### **UNIVERSITY ACADEMIC FREEDOM AND RESPONSIBILITY**

*(Excerpt from the Policy on the Rights and Responsibilities of the Faculty.)*

Michigan State University endorses academic freedom and responsibility as essential to attainment of the University's goal of the unfettered search for knowledge and its free exposition. Academic freedom and responsibility are fundamental characteristics of the University environment and are always closely interwoven and at times indistinguishable. Academic freedom and responsibility are the twin guardians of the integrity and quality of universities. The University looks to its faculty members to exercise their rights responsibly and to meet their

obligations fully as professionals. Faculty acceptance of their responsibilities to students, colleagues, the scholarly community, and the public explains in great part why society historically has accepted the concept of academic freedom and has afforded its protection through the institution of academic tenure.

For faculty members, the principal elements of academic freedom include:

1. The right, as teachers, to discuss in the classroom any material which has a significant relationship to the subject matter as defined in the approved course description;
2. The right to determine course content, grading, and classroom procedures in the courses they teach;
3. The right to conduct research and to engage in creative endeavors;
4. The right to publish or present research findings and creative works;
5. The right to engage in public service activities; and
6. The right to seek changes in institutional policy through established University procedures and by lawful and peaceful means.

Academic freedom carries with it responsibilities. For faculty members, the principal elements include:

1. The responsibility to carry out assigned teaching, research, and public service duties in a professional manner and in keeping with University policy;
2. The responsibility, as teachers, to refrain from introducing matters which are not consistent with their teaching duties and professional competence and which have no significant bearing on the subject matter of the course as approved under University procedures;
3. The responsibility to pursue excellence and intellectual honesty in teaching, research, and other creative endeavors and in public service activities; and in publishing or presenting research findings and creative works;
4. The responsibility to encourage students and colleagues to engage in free discussion and inquiry; and to evaluate student and colleague performance on a scholarly basis;
5. The responsibility to work in a collegial manner with appropriate individuals and bodies to encourage the free search for knowledge; its free exposition, and the University's continuing quest for excellence; and
6. The responsibility to differentiate carefully their official activities as faculty members from their personal activities as citizens and, when the situation warrants, to make it clear that, when speaking as private citizens, they do not speak for the University.

The above list provides a summary outline of the principal elements of academic freedom and responsibility. More detailed and explicit definitional statements applicable to specific faculty rights and responsibilities are set forth below under the following headings: Academic Tenure, Academic Governance, Teaching, Research and Creative Activity, Public Service, Relations with Colleagues, Relation to the University and the Community, and Resolution of Conflicts.

## UNIVERSITY POLICY ON CODE OF TEACHING RESPONSIBILITY

This policy was approved by the Academic Council on November 4, 1969 and the Academic Senate on November 19, 1969; it was subsequently revised by Academic Council on May 19, 1976, February 27, 1996, and April 19, 2005 (effective Fall semester 2005).

Satisfaction of teaching responsibilities by instructional staff members (herein referred to as instructors) is essential to the successful functioning of a university. This University conceives these responsibilities to be so important that performance by instructors in meeting the provisions of this Code shall be taken into consideration in determining salary increases, tenure, and promotion.

1. **Course content:** Instructors shall be responsible for ensuring that the content of the courses they teach is consistent with the course descriptions approved by the University Committee on Curriculum and the Academic Council. Instructors shall direct class activities toward the fulfillment of course objectives and shall evaluate student performance in a manner consistent with these objectives.
2. **Course syllabi:** Instructors shall be responsible for distributing a course syllabus (either in print or electronic form) at the beginning of the semester. The syllabus shall minimally include:
  - a. instructional objectives;
  - b. instructor contact information and office hours;
  - c. grading criteria and methods used to determine final course grades;
  - d. date of the final examination and tentative dates of required assignments, quizzes, and tests, if applicable;
  - e. attendance policy, if different from the University attendance policy and especially when that attendance policy affects student grades; and
  - f. required and recommended course materials to be purchased, including textbooks and supplies.
3. **Student Assessment and Final Grades:** Instructors shall be responsible for informing students, in a timely manner so as to enhance learning, of the grading criteria and methods used to determine grades on individual assignments. Instructors shall be responsible for assessing a student's performance based on announced criteria and on standards of academic achievement. Instructors shall submit final course grades in accordance with University deadlines.
4. **Testing Documents:** Instructors shall be responsible for returning to students, student answers to quizzes, tests, and examinations with such promptness to enhance the learning experience. Instructors shall retain final examination answers for at least one semester to allow students to review or to retrieve them. All testing questions (whether on quizzes, tests, or mid-semester or final examinations) are an integral part of course materials, and the decision whether to allow students to retain them is left to the discretion of the instructor.
5. **Term Papers and Comparable Projects:** Instructors shall be responsible for returning to

students student term papers and other comparable projects with sufficient promptness to enhance the learning experience. Term papers and other comparable projects are the property of students who prepare them. Instructors shall retain such unclaimed course work for at least one semester to allow students to retrieve such work. Instructors have a right to retain a copy of student course work for their own files.

6. **Class Meetings:** Instructors shall be responsible for meeting their classes regularly and at scheduled times. To allow units to take appropriate action, instructors shall notify their units if they are to be absent and have not made suitable arrangements regarding their classes.
7. **Applicability of the Code of Teaching Responsibility to Student Assistants:** Instructors of courses in which assistants are authorized to perform teaching, grading, or other instructional functions shall be responsible for acquainting such individuals with the provisions of this Code and for monitoring their compliance.
8. **Instructor Accessibility to Students:** Instructors shall be responsible for being accessible to students outside of class time and therefore shall schedule and keep office hours for student conferences. Office hours should be scheduled at times convenient to both students and instructors with the additional option of mutually convenient prearranged appointments for students whose schedules conflict with announced office hours. Each teaching unit shall determine the minimum number of office hours for instructors in that unit. Instructors who serve as academic advisors also shall be responsible for maintaining appropriate office hours before and during enrollment periods. In addition to office hours, instructor accessibility through e-mail and other means is encouraged.
9. **Commercialization of Course Notes and Materials:** The University prohibits students from commercializing their notes of lectures and University-provided class materials without the written consent of the instructor. Instructors may allow commercialization by including permission in the course syllabus or other written statement distributed to all students in the class.

### **Hearing Procedures**

1. Students may register complaints regarding an instructor's failure to comply with the provisions of the Code of Teaching Responsibility directly with that instructor.
2. Students may also take complaints directly to teaching units' chief administrators or their designates. If those persons are unable to resolve matters to the student's satisfaction, they are obligated to transmit written complaints to unit committees charged with hearing such complaints. A copy of any complaint transmitted shall be sent to the instructor. A written report of the action or recommendation of such groups will be forwarded to the student and to the instructor, normally within ten working days of the receipt of the complaint.
3. Complaints coming to the University Ombudsman will be reported, in writing, to chief administrators of the teaching units involved when in the Ombudsman's opinion a hearing appears necessary. It will be the responsibility of chief administrators or their designates to inform the instructor and to refer such unresolved complaints to the unit committees charged

with hearing such complaints. A written report of the action or recommendation of such groups will be forwarded to the University Ombudsman, to the student, and to the instructor, normally within ten working days of the receipt of the complaint.

4. Students wishing to appeal a teaching unit action or recommendation may do so as outlined in Academic Freedom Report for Students at Michigan State University, Graduate Student Rights and Responsibilities, or Medical Student Rights and Responsibilities.

Such complaints must normally be initiated no later than the middle of the semester following the one wherein alleged violations occurred. Exceptions shall be made in cases where the involved instructor or student is absent from the University during the semester following the one wherein alleged violations occurred.

## **UNIVERSITY POLICY ON ACCEPTABLE USE OF COMPUTING SYSTEMS, SOFTWARE, AND THE UNIVERSITY DIGITAL NETWORK (<http://www.msu.edu/au/>)**

### **COLLEGE IMPLEMENTATION PRACTICES FOR ACCEPTABLE USE OF INFORMATION SYSTEMS**

Michigan State University College of Law provides its faculty and staff with access to its information systems to support teaching, scholarship, service and administration. This policy outlines the acceptable use of those information systems. In general, all usage is acceptable if it is legal, consistent with other policies of College of Law, and does not compromise others' use of MSU College of Law information systems. Except under specific and limited circumstances, all use of those information systems, and all user files and email residing thereon, shall be held in strictest confidence.

#### **Guidelines for Acceptable Use Consistent with MSU Policy**

##### **Core Uses**

Core uses are those relating to MSU College of Law teaching, scholarship, service and administration and their deployment is encouraged and supported. Examples include classroom use, computer-based assignments, research applications, communication among faculty, students, and administrators, administrative applications, and access to information relating to MSU College of Law.

##### **Ancillary Uses**

Ancillary uses are those which are neither core nor unacceptable uses, and which do not interfere with or become an undue burden on others' use of technology services. Ancillary use is permitted but not actively supported. It consumes only resources that would otherwise be unused, and does not require any action or intervention by anyone at MSU College of Law other than the user. Typical examples are personal communications and research: using MSU College of Law servers to send and receive reasonable amounts of personal email, or using web services for shopping or vacation travel planning.

##### **Unacceptable Use**

Unacceptable use of technology services includes: uses that are illegal, such as fraud,

harassment, or violation of copyright; and uses that deprive other users of access to technology services or interfere with the functioning of central networks and systems, such as mass mailings, chain letters, unauthorized high-bandwidth applications, or denial-of-service attacks.

Unacceptable use is not permitted, and failure to discontinue an unacceptable use may result in loss of computing privileges.

### **Privacy**

User information stored in the systems of MSU College of Law shall be treated as confidential. MSU College of Law will make reasonable efforts to ensure that user files and email messages remain private, and will not monitor their contents. Technology Services staff are not authorized to access a user's account or files without the user's explicit permission. Exceptions to this implementation practice are addressed in the University Policy on Acceptable Use.

Systems administrators may also see the contents of an email when investigating addressing errors, resolving technical problems with the system, or upon the termination of a user's affiliation with MSU College of Law. The contents of private email disclosed under these circumstances shall remain strictly confidential, and such disclosure shall not constitute a waiver of privilege.

Applicability: Accepting any account or using MSU College of Law information systems shall constitute an agreement on behalf of the user to be bound by the provisions of this Policy. Adopted May 16, 2001.

## **IMPLEMENTATION PRACTICE FOR APPOINTMENT OF PART TIME FIXED TERM FACULTY (ADJUNCT FACULTY)**

### **Part Time Fixed Term Faculty Appointment and Evaluation**

Recommendations to the regular faculty for the selection of part time fixed term faculty are made jointly by the Committee on Faculty Appointments and the Senior Associate Dean for Academic Affairs, after consultation with the Curriculum Committee regarding course coverage and development. The vitae/resume of candidates recommended by the Associate Dean and Committee on Faculty Appointments and the proposed course assignment are distributed to members of the regular faculty for review. If no objection is raised by any member of the regular faculty within five business days of the distribution (i.e., under the "five day rule"), the Associate Dean will proceed to offer the position to the candidate. If an objection is raised, the candidate shall be discussed at the next faculty meeting to provide advice to the Dean. (College Bylaw 1.4.3.1) Amended: Dec. 15, 2004

### **Part-time Fixed Term Faculty Evaluation**

The Senior Associate Dean for Academic Affairs will develop a schedule which assigns three

members of the regular faculty who will each visit the classes of each new member of the part-time fixed term faculty once a year for the first two years. Thereafter, one member of the regular faculty shall be assigned to evaluate the part-time fixed term instructor once every third year. Part-time fixed term faculty who teach more than one course shall be evaluated in each course. The Senior Associate Dean for Academic Affairs may schedule more frequent evaluations when it is deemed advisable.

In promulgating the schedule of evaluation assignments, the Associate Dean shall provide the opportunity for a faculty member to recuse him/herself for personal reasons and to allow for reassignment of that faculty member to another part-time fixed term instructor. Furthermore, the Associate Dean shall make every effort to ensure that at least one of the three evaluators holds expertise in the course area being evaluated.

In evaluating the teaching of a member of the part-time fixed term faculty, an evaluation committee, or the Faculty evaluator, whatever the case may be, shall:

1. Visit class(es)
2. Encourage and receive individual student comments
3. Review student evaluations
4. Examine course materials
5. Study past examinations
6. Confer with members of the administration regarding attendance, punctuality, conformity with grading standards, adherence to examination period deadlines, et cetera.

In the event that significant concerns are raised regarding the performance of a part-time fixed term professor after the second year, the Associate Dean, working in consultation with the Academic Standards Committee, may assign a team of regular faculty members to revisit the classroom and conduct a review of performance.

The committee (or evaluator) shall, as appropriate, verbally share reactions and suggestions with the part-time fixed term professor being evaluated. The part-time fixed term faculty member shall also receive a written evaluation from the Senior Associate Dean for Academic Affairs in the following academic term. The committee shall report in writing its findings to the Associate Dean and the Academic Standards Committee regarding adherence by the part-time fixed term faculty member to the teaching standards and obligations established by the College employing a standardized evaluation form.

The Dean and the Committee on Faculty Appointments shall report the findings of the Committee to the regular faculty at the beginning of the subsequent term.  
Amended May 19, 1999

### **Part-time Fixed Term Faculty Teaching Standards**

Members of the part-time fixed term faculty should adhere to the same standards of teaching

excellence established for regular faculty members. It is anticipated that, where appropriate, part-time fixed term instructors will use their professional experience to connect legal theory with its application in the practice of law.

Adopted: September 6, 1989

## **UNIVERSITY POLICY ON FACULTY REVIEW**

<sup>1</sup>This policy was issued by the Office of the Provost on February 11, 1997 (to be effective Fall semester 1997) and revised on March 3, 2003; it reflects advice by the Faculty Council and the University Committee on Faculty Affairs.

All units must have procedures for written evaluation of tenure system faculty at all ranks to support the annual merit process and to provide a basis for a clear statement of performance expectations and accomplishments. It is recognized that provisions and practices in units may vary; however, all evaluation procedures must incorporate, at the minimum, the principles included in this model policy for regular faculty review, and must be applied uniformly to all faculty in the unit.

### **Principles**

While some variation may occur in the approach to reviews, the following principles as implemented by unit procedures are to be followed by unit administrators (i.e., Deans, Chairpersons and Directors) and faculty. In the case of faculty with joint appointments, a lead unit administrator shall be designated. The process should be clearly defined by the bylaws or established personnel policies and procedures of each academic unit.

Each tenure system faculty shall be evaluated on an annual basis and informed in writing of the results of his/her review by the unit administrator.

Each unit shall have clearly formulated and relevant written performance criteria and shall provide these at the time of appointment, and subsequently as necessary, to all faculty to clarify expectations.

Faculty shall be informed of all factors used for evaluation, the evaluation of their performance on each of these factors and the relationship between their performance and decisions on merit salary adjustments and, if appropriate, on reappointment, promotion and tenure. Faculty are entitled to have all their assigned duties given weight in the evaluation.

These annual assessments of faculty reviews shall be reflected in recommendations to the Provost's Office regarding reappointment, tenure, and promotion.

### **Guidelines for Implementation**

Units should initiate the annual review process early enough so that the full process, including

feedback to faculty, may be completed before the beginning of the fall semester.

Each faculty member shall submit a written summary of activities for the appropriate period of time to the unit administrator in a timely manner prior to the review. These materials will be shared with the faculty in accordance with unit bylaws and procedures.

If unit bylaws or procedures provide for performance evaluation by peer review committees, unit administrators shall rely on the advice of this designated group, in addition to their own judgment.

Unit administrators or their designees, no later than 3 months after completion of the evaluation, shall provide to the faculty member a written evaluation of her/his overall performance. Whenever appropriate, such evaluations shall contain constructive and explicit recommendations and clarify expectations of what is needed to make additional scholarly progress in the tenure system.

If, after receiving the written review, the faculty member disagrees with its content or chooses to provide additional documentation or comment, the faculty member shall have an opportunity to respond to the review. Any additional written faculty comment and/or documentation which is submitted within one month of receipt of the written review shall become part of the documentation for the review.

The full documentation for this written review, including the faculty member's response, shall be placed in the faculty member's unit personnel file.

Meetings between faculty members and unit administrators are encouraged prior to the written summary to provide feedback about expectations and evaluation. Each faculty member shall have the right to meet in person with the unit administrator or designee after the written review is received.

### **COLLEGE OF LAW ANNUAL REVIEW IMPLEMENTATION PRACTICE**

(Adapted from policy adopted by faculty on May 16, 2001, at 3-7 of Faculty handbook, Spring 2008)

1. The annual reviews of regular faculty members shall be based on the performance criteria of teaching, scholarship and service. Individuals may place emphasis on various criteria, taking into consideration the expectations existing for faculty members at the time the individual faculty member joined the regular faculty. Uniformity among faculty members in satisfying the various criteria is not expected.
2. Each regular faculty member shall be evaluated every year and informed in writing of the results of the review by the Dean.
3. The annual review process will be done early enough so that the full process, including feedback to each faculty member, will be completed before the end of each fiscal year of the College.

4. Each faculty member shall submit annually in the spring semester of each year by a date set by the Dean a written summary report of activities for the appropriate period of time concerning the faculty member's performance as related to teaching, scholarship, and service. The report format will be determined by the Dean in consultation with the Faculty Advisory Council and distributed timely to the faculty. After receipt of the report, the Dean may meet in a timely manner with each tenured faculty member to provide an evaluation of the faculty member's performance. Within 3 months thereafter, the Dean shall provide the faculty member the results of the review in writing, including a decision regarding merit pay increases. If, after receiving the written review, the faculty member disagrees with its content or chooses to provide additional documentation or comment, the faculty member shall have an opportunity to meet with the Dean and to respond in writing to the review. The Dean's written response, as well as the faculty member's response, including all documentation in support thereof, shall be placed in the faculty member's personnel file.

#### **UNIVERSITY CONFLICT OF INTEREST IN EDUCATIONAL RESPONSIBILITIES RESULTING FROM CONSENSUAL AMOROUS OR SEXUAL RELATIONSHIPS<sup>1</sup>**

*This policy was approved by the Board of Trustees on November 8, 1996.*

An amorous or sexual relationship between a student and a faculty member, a graduate teaching assistant or another University employee who has educational responsibility for that student may impair or undermine the ongoing trust needed for effective teaching, learning and professional development. Because of the faculty member, graduate assistant or other employee's authority or power over the student, inherently conflicting interests and perceptions of unfair advantage arise when a faculty member, graduate teaching assistant or other employee assumes or maintains educational responsibility for a student with whom the faculty member, graduate teaching assistant or other employee has engaged in amorous or sexual relations.

It is, therefore, the policy of Michigan State University that each faculty member, graduate teaching assistant and other University employee who has educational responsibilities for students shall not assume or maintain educational responsibility for a student with whom the faculty member, graduate teaching assistant or other employee has engaged in amorous or sexual relations, even if such relations were consensual. Whether such amorous or sexual relationships predate the assumption of educational responsibility for the student, or arise out of the educational relationship, the faculty member, graduate teaching assistant or other employee shall immediately disclose the amorous or sexual relationship to the relevant unit administrator, who shall promptly arrange other oversight for the student.

In unusual circumstances, the achievement of the affected student's academic requirements may necessitate continued oversight of the affected student by the faculty member, graduate teaching assistant or other University employee who has engaged in amorous or sexual relations with that student. In such circumstances the unit administrator shall, therefore, have authority, after consulting the affected student, to permit the continued oversight of the affected student by the faculty member, graduate teaching assistant or other University employee, provided that the faculty member, graduate teaching assistant or other University employee shall not grade or

otherwise evaluate, or participate in the grading or other evaluation of, the work of the affected student, and that the alternative arrangements for grading or evaluating the affected student's work treat the student comparably to other students.

*Footnotes:*

*<sup>1</sup>The Board of Trustees approved this policy statement on November 8, 1996. The Board of Trustees adopted a subsequent motion which emphasized the view of the Board that consensual amorous or sexual relations between faculty and students are discouraged.*

## **COLLEGE DECANAL APPOINTMENT AND REVIEW**

The Faculty Advisory Council shall have shared responsibility with the Provost to determine procedures for appointment of and for review of the Dean, which shall occur at intervals not to exceed five years. (University Bylaws for Academic Governance 2.1.4.1 (<http://www.msu.edu/unit/acadgov/bylaws/section2/>); College Bylaws 2.3.5.5 and 2.3.5.6) (See Appendix I for 2007-08 Search Procedure)

## **COLLEGE SENIORITY POLICY**

The Dean and Senior Associate Dean shall recognize a strong presumption in favor of seniority when considering such matters as:

1. eligibility for sabbatical leave, with such eligibility to be applied in a manner consistent with the sabbatical leave policy;
2. security of position in the case of a reduction in force, with such security of position to be applied in a manner consistent with the policy on tenure revocation and other disciplinary actions and any other applicable faculty policies (*applicability of this provision depends upon final integration format*);
3. assignment of offices; and
4. assignment of courses.

Seniority of tenure-track and tenured faculty shall be based upon date of hire, except that date of hire shall not be computed on the basis of prior service as an adjunct, a clinician, director of the RWA program, or faculty in the RWA program. If two or more faculty members are hired on the same date, then seniority between them shall be based upon their date of graduation from law school. Emeritus faculty do not possess seniority for purposes of this guideline. As deemed appropriate, the Dean may consult with the FAC on implementation of this policy.

Adopted: November 20, 2001

## **COLLEGE LENGTH OF CLASS SESSION POLICY**

Effective immediately, and insofar as the current class schedule permits, a faculty member shall have the discretion to conduct:

1. a two-hour course for two 50 minute sessions or one 100-minute session,
2. a three-hour course for three 50-minute sessions. Or two 75-minute sessions, and,
3. a four-hour course for four 50-minute sessions, three 67-minute sessions, or two 100-minute sessions.

*Adopted: August 24, 1988*

## **COLLEGE FIXED TERM FACULTY POSITIONS** (College Bylaws sections 1.3.2 et. Seq.)

### **COLLEGE FACULTY COMMITTEES** (College Bylaw Sections 2.7 - 2.7.5)

### **COLLEGE IMPLEMENTATION PRACTICES CURRICULUM COMMITTEE, COMMITTEE RULES**

The following rules are intended to implement the internal policies of the College of Law with regard to faculty approval of new courses and other changes in the curriculum, and are adopted pursuant to Bylaw 2.7.1.1. Proponents are responsible for providing any further information necessary to secure final approval by the University Curriculum Committee.

The proponent of a new course should provide a draft syllabus including the following information:

- Title of course
- Number of credits
- Prerequisites
- Required text or readings
- Format (Socratic, seminar, workshop, clinic, etc.)
- Student work product (paper, examination, etc.)
- Description of the subject matter and learning objectives

The proponent of a curricular change should provide a detailed assessment of the effect of the change on students. Particular attention should be given to the effective date of curricular changes to minimize or if possible eliminate any disparate impact upon similarly situated students and to provide students with ample notice.

The person proposing a course should bear the burden of showing the nature and extent of overlap with existing courses. If there is substantial overlap, and the Committee nonetheless recommends approval of the course, those courses in which students may not also receive credit should be specifically listed.

The Committee will make a preliminary decision; if it decides to recommend approval of the course or other curricular change, it will refer the matter to the faculty for comment before making its formal recommendation at the next faculty meeting.

#### **Role of Senior Associate Dean for Academic Affairs on Committees**

On committees for which the Senior Associate Dean for Academic Affairs has been appointed as a faculty member, s/he shall serve as a regular voting member; on committees for which the Associate Dean has been appointed in his/her administrative role, s/he shall serve in a non-voting ex officio capacity.

Adopted: September 20, 2000

## **UNIVERSITY EMERITUS POLICY**

*The following policy was approved by the Board of Trustees on May 18, 1950 and revised on April 5, 1991.*

Members of the faculty, academic staff and administrative staff who leave the University with official retirement status are granted certain privileges and the "emeritus" title. For faculty members with the rank of professor, associate professor or assistant professor, the "emeritus" designation is appended to the rank held at the time of retirement, e.g., professor emeritus. For academic staff the title would be librarian emeritus, etc. For administrators whose administrative appointment requires approval by the Board of Trustees and for all executive managers, the emeritus designation, upon approval by the Provost and the President, is appended only to the most senior administrative title held at Michigan State University, which may be held at or prior to the time of retirement, e.g., dean emeritus. The emeritus designation is not normally awarded for administrative titles held on an "acting" basis.

Faculty with the emeritus designation are entitled to attend Academic Senate meetings with voice but without vote; to march in academic processions such as commencement; to receive the MSU News-Bulletin; to avail themselves of the libraries; to receive, on application, a faculty vehicle permit; to represent the University, on appointment, at academic ceremonies of other institutions; and, in general, to take part in the social and ceremonial functions of the University.

## **COLLEGE EMERITUS IMPLEMENTATION PRACTICE**

Professors emeriti may continue to use their law school e-mail accounts; may participate in Commencement ceremonies; and shall have the same parking privileges as full-time professors.

Professors emeriti may be allowed office space and/or clerical assistance for work on scholarship or school-related matters depending on the availability of office space and/or clerical assistance after the needs of full-time faculty are met.

See also the MSU College of Law Affiliate Status policy at page 3-21.

## **UNIVERSITY PROCEDURES CONCERNING ALLEGATIONS OF MISCONDUCT IN RESEARCH AND CREATIVE ACTIVITIES**

(<http://www.hr.msu.edu/hrsite/documents/faculty/handbooks/faculty/ResearchCreativeEndeavor/vi-miscon-toc.htm>)

## UNIVERSITY RESEARCH INTEGRITY MISSION STATEMENT

Safeguarding the integrity of research and creative activities is fundamental to the mission of Michigan State University. We owe no less to the public which sustains institutions like ours and to the governmental agencies and private entities which sponsor the research enterprise. All members of MSU share responsibility to assure that misconduct or fraud in research and creative activity is dealt with effectively and that MSU's high standards for scholarly integrity are preserved.

Moreover, MSU has explicit obligations to federal agencies to safeguard research integrity. In seeking funds from these agencies, MSU is required to establish and abide by uniform policies and procedures for investigating and reporting instances of alleged or apparent misconduct involving research and related activities.

To meet these needs, MSU has developed the Procedures Concerning Allegations of Misconduct in Research and Creative Activities. By following these Procedures for the investigation and evaluation of alleged or apparent misconduct, MSU will discharge its regulatory obligations and, more importantly, help preserve the integrity of research and creative activities conducted under its auspices. The Procedures also provide a basis for imposing sanctions, or initiating processes that may result in the imposition of sanctions, on individuals who violate MSU's expectations of integrity in research and creative activities.

## UNIVERSITY FACULTY GUIDELINES ON AUTHORSHIP

*Michigan State University GUIDELINES on Authorship, Adopted by the University Research Council, January 15, 1998*

(To apply to all academic units which have not adopted their own written policies)

1. Authorship - A person claiming authorship of a scholarly publication must have met the following criteria:
  - a. Substantial participation in conception and design of the study, or in analysis and interpretation of data;
  - b. Substantial participation in the drafting of the manuscript or in the substantive editing of the manuscript;
  - c. Final approval of the version of the manuscript to be published;
  - d. Ability to explain and defend the study in public or scholarly settings.
  - e. (Note: these criteria follow closely those recommended by several professional associations. See especially the International Committee of Medical Journal Editors, *Annals of Internal Medicine* 1988; 108: 258-65.)
2. Acknowledgment - Contributions that do not justify authorship should be acknowledged separately in the notes to the manuscript. These may include general supervision of a research group, assistance in obtaining funding, or technical support.
3. "Honorary Authorship" - A claim of authorship by, or assignment of authorship to, persons who may have been associated in some way with a study but do not meet the four criteria in item 1 may constitute an unethical research practice.

4. Graduate Student Authorship - "Faculty should be especially aware of their responsibility to safeguard the rights of graduate students to publish the results of their research." (MSU Research Handbook, 1985, p. 16, section 4.3.1.)
5. Senior Author and Order of Authorship - The senior author is generally defined as the person who leads a study and makes a major contribution to the work. All the authors at the outset of a project should establish senior authorship, preferably in a written memorandum of understanding. This memorandum of understanding should reference the authors' agreement to abide by their departments' policy on authorship or this University default policy on authorship. At the outset of the study the Senior Author should discuss the outline of work and a tentative Order of Authorship with the study participants. As projects proceed, agreements regarding authorship may need to be changed. It is the responsibility of the senior author to assure that the contributions of study participants are properly recognized.
6. Disputes Over Authorship - Disagreements over authorship, e.g. who has a right to be an author or the order of authorship, should be resolved by the Senior Author in collegial consultation with the other authors. When this process cannot reach resolution, the Senior Author should arrange with his or her chairperson for arbitration by a knowledgeable and disinterested third party acceptable to all the authors. If the authors cannot agree on a mutually acceptable arbitrator, then the Vice President for Research and Graduate Studies shall appoint an arbitrator. During the arbitration process all the authors are expected to refrain from unilateral actions that may damage the authorship interests and rights of the other authors.
7. Accountability - Every author listed on a publication is presumed to have approved the final version of the manuscript. Each author is responsible for the integrity of the research being reported.
8. Plagiarism -The word plagiarism is derived from the Latin plagiarius, an abductor, and plagiare, to steal. The expropriation of another author's text, and the presentation of it as one's own, constitutes plagiarism. Plagiarism, in turn, constitutes misconduct in scholarship under University policies and procedures. Plagiarism in scholarly projects should be reported to one's chairperson, dean, or the University Intellectual Integrity Officer. (American Historical Association, Statements on Standards, 1993, p. 13)
9. Distribution -This policy should be widely distributed, especially to each new faculty, graduate student and research staff member in academic units.

### **COLLEGE FACULTY HIRING IMPLEMENTATION PRACTICES**

(Consistent with the University hiring procedures for faculty and academic staff)

The following process shall be used by the Dean and faculty in hiring persons for the following positions:

- a. Tenure system faculty
- b. The Director of the Library
- c. The Director of the Research, Writing and Advocacy Program, and ,

d. Clinical faculty

A separate selection and voting process shall be used for hiring persons within each of these four categories.

Except as specifically required by these rules or by other formal policies of the faculty, all votes shall be based on a majority of those votes cast, excluding abstentions.

1. The Committee on Faculty Appointments (CFA) shall be appointed pursuant to the Faculty Regulations.
2. The Dean shall identify to the CFA the number of positions available for which faculty can be hired, and the curricular needs of the College.
3. Throughout the process the CFA shall consult with the Dean with respect to the selection of candidates.
4. The CFA shall select first round candidates who are to be given preliminary interviews and shall conduct those interviews at AALS and elsewhere, as the CFA deems appropriate.
5. The CFA, in consultation with the Dean, shall select second round candidates out of the first round pool, and shall arrange for them to be interviewed and to give presentations at the College.
6. Either before or after on campus interviews have taken place, the CFA shall research the scholarship and references and shall prepare a report on each second round candidate, which shall include an analysis of the scholarship and references of that candidate, and of the suitability of that candidate to meet the curricular needs of the College.
7. The CFA shall deliver to the faculty a written list of those second round candidates whom it recommends as the slate of third round candidates for further discussion by the full faculty. As part of the discussions prior to the faculty vote on the slate of candidates, the CFA may be asked to deliver its reports on any of the second round candidates. The faculty shall vote on this slate of candidates by public vote pursuant to normal procedure for approval of committee reports, including amendments from the floor. The slate that receives a majority vote shall proceed to the third round of consideration.
8. The CFA shall present to the regular faculty its report on each of the third round candidates, and shall lead a discussion on the suitability for hiring of each of these candidates. The faculty shall then vote by secret ballot on those third round candidates whom the faculty finds acceptable for hiring by the College. Each third round candidate who receives a favorable majority vote shall be a finalist who is eligible to receive an offer of employment by the College. The Dean may participate in these discussions. The finalists shall be ranked according to the number of yes votes that each finalist receives from the faculty. The outcome of these deliberations are advisory to the Dean.
9. If a finalist is to be considered for an offer of tenure, the tenured faculty shall vote upon whether to offer tenure to that finalist pursuant to the Policy for the Granting of Tenure and Promotion, as adopted by the Faculty on September 17, 1999, and by the Board of Trustees

in February 2000, as subsequently amended from time to time.

10. The Dean shall give substantial deference to the rank order of the finalists in determining the finalists to whom offers shall be extended.
11. The Dean shall provide written reasons to the faculty in cases where the faculty's rank order of finalists is not followed.
12. The Dean shall make offers to the finalists and shall negotiate with those offerees regarding the terms and salary of the offers.
13. Notwithstanding the foregoing, the Dean, in consultation with the CFA, may from time to time identify one or more extraordinary candidates for expedited initial interviews, on campus interviews, review of scholarship and references, and consideration for hiring by the full faculty pursuant to the above process without presenting an entire slate of candidates to the faculty for consideration. Adopted: October 17, 2001

## **COLLEGE FACULTY MEETING AND VOTING PROCEDURES**

(Covered by College Bylaws Sections 2.6 - 2.6.6)

## **MSU COLLEGE OF LAW AFFILIATE STATUS**

*(This Policy stays in place pending conclusion of integration deliberations.)*

Under the terms of the affiliation agreement of 1995, and with endorsement by the University Committee on Faculty Affairs on January 28, 1997, faculty and academic staff employed by MSU College of Law are eligible to be considered for appointment by Michigan State University as College of Law Affiliate appointees. College of Law Affiliate appointments are made by the Provost of MSU. These appointments are made without salary and for a maximum period of three years. Reappointment is at the discretion of the Provost of MSU. Successive reappointments in College of Law Affiliate status do not confer tenure or any other continuing appointment status by MSU.

College of Law Affiliate appointments may be made at any level from instructor to professor and also are applicable to their academic titles such as librarian. Persons holding College of Law Affiliate appointments are expected to have the educational background and/or experience for the rank or title, and they must be interested in establishing collegial interactions with regular faculty and academic staff of Michigan State University. In principle, individuals may hold a College of Law Affiliate appointment and in addition may be appointed to adjunct or clinical status under the separate MSU policy on Adjunct and Clinical appointments.

The number of College of Law Affiliate positions will be recommended by the MSU College of Law Dean and established by the Provost of MSU. College of Law faculty nominated by the Dean of the MSU College of Law will be considered for appointment by the Provost of MSU.

Benefits and activities extended to individuals appointed to College of Law Affiliate status include the following. Most of these privileges require an MSU Identification Card. Information and assistance will be provided by the Office of the Dean of MSU College of Law.

Areas in which College of Law Affiliate appointment carries faculty status:

- Library and computer network privileges
- Privilege of attending University faculty (senate) meetings
- Use of intramural facilities and Forest Akers Golf Courses (MSU Identification Card required)
- Purchase of athletic tickets at faculty rates (MSU Identification Card required)
- MSU Identification Card
- Eligibility for faculty members in The University Club of MSU
- Parking privileges upon purchase of a standard faculty/staff permit

Areas in which College of Law Affiliate status/appointment does not carry MSU faculty status:

- Tenure or any other form of continuing appointment status
- Any insurance benefit or program offered by the University
- Participation in any MSU retirement program
- Voting in University elections
- Election to University committees, boards, panels or other bodies.

Arrangements which are to be made on an individual basis and which are not included in College of Law Affiliate status except by special, explicit, written arrangement with the MSU Provost:

- Authority to propose, receive and implement research grants or contracts
- Office or research space

### **Emeritus Status for College of Law Affiliate Appointees**

Individuals holding College of Law Affiliate status who meet the following criteria may be recommended for emeritus status:

Be 62 years of age or older and have served as a College of Law Affiliate appointee for fifteen (15) years.

Have served as a College of Law Affiliate appointee for twenty-five (25) years at any age. A tenured MSU College of Law faculty member who has rendered exceptional service but does not meet the length of service requirements immediately above may be recommended to the MSU Provost by the MSU College of Law Dean for consideration for emeritus status.

Emeritus status for College of Law Affiliate appointees will be recommended by the Dean of MSU College of Law to the Office of the Provost for initial approval. The emeritus status is appended to the highest rank or academic staff title held with MSU College of Law, e.g., MSU College of Law Affiliate professor emeritus.

Emeritus College of Law Affiliate appointees are not designated as official retirees of the

Michigan State University. College of Law Affiliate appointees with an emeritus designation are limited to the following privileges:

- Library and computer network privileges
- Privilege of attending university faculty meetings
- Use of intramural facilities and Forest Akers Golf Courses
- Purchase of athletic tickets at faculty rates
- Eligibility for faculty membership in the University Club of MSU
- Parking privileges, i.e., may continue to purchase standard faculty/staff permit.

### **COLLEGE PRACTICE ON TEAM TEACHING WITH UNIVERSITY FACULTY**

It is encouraged that whenever a Michigan State University College of Law faculty member team teaches a course with a Michigan State University faculty member, adjunct professor status will be granted to the Michigan State University faculty member, after a personal interview, provided adjunct faculty status also is granted by the Michigan State University department to the Michigan State University College of Law faculty member. Adopted: 1997.

### **UNIVERSITY NEPOTISM POLICY CONFLICT OF INTEREST IN EMPLOYMENT**

*The following policy was approved by the Board of Trustees on December 8, 1995 as a replacement for the Employment of Relatives policy.*

Standards for hiring, promotion, reappointment, evaluation, working conditions, responsibilities, salary and termination for all employees at Michigan State University are based on ability, qualifications for the position, and performance. Relationship (meaning connection between persons, hereinafter referred to as "relatives," by blood, marriage, adoption, domestic partnership, or other personal relationship in which objectivity might be impaired) to another individual employed by the University shall not constitute a bar to hiring, promotion or reappointment; provided, however, that no employee shall be under the direct supervision or control of a "relative." Employment of "relatives" in the same unit or department or under the same supervisor is authorized only with the prior written approval of the head of the unit or department and the Office of the Provost or the Office of Human Resource Services, as appropriate. In addition, "relatives" should not participate in roles which have the potential for influencing employment decisions, e.g., peer review.

General Principles:

1. To avoid possible conflicts of interest, any dean, director, chairperson/supervisor or participant in peer or administrative review procedures who is a "relative" of an employee or job applicant must not participate either formally or informally in decisions (including rendering advice on decisions) on personnel matters affecting the "relative," including, but not limited to, decisions to hire, retain, promote or determine the salary.
2. In cases where a chairperson/supervisor has primary responsibility for evaluation or for assignment of duties (e.g., a department chairperson's supervision of faculty in the

department), no employee may supervise a "relative." An appropriate individual must be designated by a higher level of administrator (e.g., dean, director, provost, vice president, president) to perform the functions of chairperson/supervisor in decisions to hire, retain, promote, assign duties or set the salary of the individual "related" to the chairperson/supervisor.

3. Within the limitations set forth above, individuals "related" to other MSU employees have all general rights extended to employees in comparable positions. For example, a faculty member has the right to serve on a departmental peer review committee even though a "relative" will be considered by the committee; the faculty member, however, would not participate in the review of the "relative."
4. Supervision and evaluation procedures, even when altered, should ensure comparable treatment of employees.
5. In circumstances which have the potential for the conflicts of interest referenced in item #1, above, individuals have the responsibility for disclosing that a conflict of interest may exist to the department chairperson, school director, dean or other relevant administrator or supervisor; the specifics of the potential conflict do not have to be provided.
6. Decisions about individual cases should be made on the basis of these principles. In cases where the application of a principle is disputed, the administrator/supervisor at the next level may be asked to assist in resolution. The Office of the Provost/Office of the Vice President for Finance and Operations has final approval regarding application of the general principles to particular cases.

### **COLLEGE POLICY ON OFFICE HOURS FOR REGULAR AND FULL-TIME FIXED TERM FACULTY**

1. Professional obligation to meet with students. Faculty have a professional obligation to provide reasonable opportunities for meeting with students to discuss class, exam, and other educational and professional-related issues.
2. Posting of regular office hours for each semester. Faculty shall provide a schedule of office hours to the faculty secretaries for posting at the beginning of each semester. Faculty are encouraged to post office hours on their office doors.
3. Minimum office hour requirements. Faculty shall schedule at least one hour per week of office hours for every two credit hours of class taught, up to a maximum of three hours per week. During periods of increased student demand, such as finals periods, faculty should make reasonable efforts to satisfy the increased demand. Faculty shall be present in their offices substantially throughout the scheduled office hours.
4. "By appointment" office hours. Faculty shall hold regularly scheduled office hours in their offices for a minimum of two hours per week. Any required office hours in excess of this two-hour minimum may be satisfied by permitting students to schedule appointments outside of regularly scheduled office hours.

5. Office hours for 1L and evening courses. Faculty teaching a 1L course shall schedule office hours at a time to avoid conflicts with other 1L courses for that section. Faculty teaching courses starting at 5 p.m. or later shall schedule a reasonable portion of office hours per week after 5 p.m. Faculty shall make reasonable efforts to accommodate students taking courses starting at 5 p.m. or later by scheduling office hours by appointment. Adopted: October 10, 2007.

## **UNIVERSITY SABBATICAL LEAVES OF ABSENCE**

*The following policy was approved by the Board of Trustees on May 25, 1956 and revised on November 19, 1993.*

### **General Policy**

1. A sabbatical leave is intended for the mutual benefit of the University and the faculty member granted a leave. The purpose is to encourage academic and institutional revitalization by providing sustained time for research/creative activities; development of new courses or programs; acquisition of expanded and/or new qualifications and skills; contribution to academic unit plans to improve and/or refocus instructional, research, or public service activities in accordance with the mission of the University.
2. A sabbatical leave is not granted automatically. Each request for a sabbatical leave must include a detailed description outlining the purposes, objectives and scholarly and research activities of the leave and normally should be submitted six months in advance of the starting date of the leave. The plan should indicate how the objectives and accomplishments of the leave will advance the interests and capabilities of the faculty member for fulfilling the aims, objectives and goals of the department/school, college or University. All leaves must have the approval of the appropriate administrators and of the Provost or designee.
3. Within thirty (30) days following the conclusion of a sabbatical leave, a sabbatical leave report, with a separate summary not to exceed one page in length, must be submitted to the department chairperson/school director or dean of a non-departmentally organized college. The report should include an assessment and evaluation of the leave accomplishments in relation to the sabbatical leave plan. Departments/schools and non-departmentally organized colleges should retain a copy of the sabbatical leave report in applicable unit files.

### **Eligibility**

Only faculty members with tenure shall be eligible for sabbatical leaves.

1. A sabbatical leave shall not be granted until the faculty member has completed six years of service to the University. Service shall be interpreted to include those activities of interest to and supported by the University, regardless of the source of financial support.
2. Years of service shall count from the date of full-time appointment, or from the ending date of the previous sabbatical leave (except as stated in the following section, number 3, below). However, all leaves of absence shall be excluded in determining years of service for a sabbatical leave.

3. The length of leaves shall not be extended on the basis of more than six years of service since the previously compensated leave.
4. Appropriate applications for a full year of leave (with reduced pay) normally have precedence over shorter term leaves (with full pay).

### **Types of Sabbatical Leaves**

1. For faculty on academic year appointments, sabbatical leaves are of two types:
  - a. One term with no reduction in pay.
  - b. Two terms with a fifty percent reduction in the academic year salary. (Payments distributed over 12 months.)
2. For faculty on annual appointments:
  - a. Up to six months with no reduction in pay.
  - b. Twelve months with a fifty percent reduction in pay.
3. For deans, directors, departmental chairpersons, and other administrative officers:
  - a. Three months once in every three years with full pay, initially after six years of service to the University which includes at least three years of administrative service.
  - b. Six months with no reduction in pay after at least six years of service to the University since the previous sabbatical or from the date of full-time appointment including at least three years in administrative positions without compensated leaves.
  - c. Sabbatical leave eligibility following the return to regular faculty duties requires six years of service to the University since the completion of the sabbatical leave referenced in a. and b., above. Up to three years credit for service between the date of full-time employment or the end date of the sabbatical leave immediately preceding the administrative assignment, whichever is later, and the beginning date of the administrative position may be applied toward this requirement only if the last sabbatical leave as an administrator was a three-month leave (see section 3a, above).

### **Conditions**

1. Recipients of sabbatical leaves are permitted to receive money for activities approved as part of the approved sabbatical plan without prejudice to their receipt of income from Michigan State University, provided that the total remuneration from all sources does not exceed that received from this institution. (Financial support to offset the costs of travel and subsistence are excluded from total remuneration; see 3, below.)
2. Teaching, research and service activities performed during sabbatical leaves must be in

accord with the mission of the unit, college and University. Faculty members on sabbatical leave may accept teaching assignments for pay subject to the following conditions:

- a. The teaching assignment must provide and be part of a variety of experiences which serve to improve scholarly/creative competence;
  - b. Benefits flowing from the teaching assignment must be demonstrable in the sabbatical leave plan;
  - c. The details of the teaching assignment are clearly defined in the sabbatical leave plan and are subject to approval by the applicable chairperson/director, dean and Provost or designee and agreed to in the best interests of the department/school, college and University.
3. In addition to salary, special arrangements may be made to defray travel and similar coincidental expenses, normally provided by externally obtained non-general fund grants or other arrangements. These arrangements normally should be approved in advance as part of the leave application.
  4. A recipient of a sabbatical leave of absence is obligated to return to Michigan State University for the following year. Requests for leaves without pay immediately following a sabbatical leave normally will not be approved. If a leave no pay is to be recommended, it should precede the sabbatical leave.

### **Departmental Adjustments**

1. If a sabbatical leave is granted for one year, academic or fiscal, the department involved will be entitled to use the released funds for a replacement, provided approval is given by the dean of the college.
2. If leave is granted for less than a year, the department will be expected to make adjustments such as suspending courses or by reassigning other personnel.
3. Sabbatical leaves shall not be granted to several members of a department concurrently if the efficiency of instruction, research and service programs will be impaired.

### **COLLEGE SABBATICAL IMPLEMENTATION PRACTICE**

#### **Application**

To make application, a written proposal must be delivered to the Dean on or before December 15 of the year preceding the academic year for which the sabbatical is sought. The proposal must include the following:

A description of the proposed sabbatical program, and how the program will satisfy the purpose or purposes of a sabbatical leave.

A list of all grants or awards the faculty member has sought or will be seeking, to be used during the sabbatical term.

A current curriculum vitae.

### **Approval or Denial of Application**

The Dean shall have the authority to approve or deny a faculty member's application for a sabbatical leave. The Dean may approve any sabbatical only if the financial resources are available and course scheduling can be accommodated. The following criteria shall be employed in determining whether to grant a sabbatical leave request:

Whether the faculty member's application indicates a specific undertaking that will be completed, or on which significant progress can be made, during the sabbatical period;

Whether the proposed project is of sufficient duration and complexity to ensure that the faculty member's expertise and contributions to the College will be substantially enhanced as a result of engaging in the proposed project;

Whether the faculty member's activities will contribute significantly to his or her professional development;

The extent to which the faculty member satisfied the terms of the proposed project of his/her last sabbatical leave, if a prior leave was granted;

The extent to which the faculty member has shown a recent history of completing scholarly work and has made significant contributions to the institution; and

Whether additional faculty members of greater seniority, and who are eligible for a sabbatical, have applied for a leave for the same period.

The Dean shall notify the faculty member of his/her decision within sixty (60) days following the submission of an application. If the application is denied, the faculty member shall be entitled to a written explanation.

If more than one faculty member submits a request for a sabbatical for the same academic year, then the Dean may approve more than one only if the financial resources are available and course scheduling can be accommodated. If a request has to be denied because of financial or scheduling problems, then priority shall be given to the faculty member with the most number of years since receiving a prior sabbatical, if any.

### **COLLEGE POLICY ON STUDENT ASSISTANCE**

Paid student assistance is available to any full-time faculty member, including visitors, for teaching and research support. Examples of appropriate utilization of student assistance would include research help for law-related publication, research help for the preparation of lectures on legal topics, research help for public service activities, or research help for course preparation. Student assistance is not to be devoted to personal support.

Teaching Assistants are hired to aid a faculty member with teaching responsibilities such as conducting lab sessions, correcting quizzes, and answering student questions. One or more teaching assistants may be hired by each faculty member for up to a total of 10 hours per week. Research Assistants are hired to assist a faculty member with publication or services activities. One or more Research Assistants may be hired by each faculty member for up to a total of 20 hours per week.

The Law College will set one pay rate for both teaching and research assistants at a level adequate to attract qualified candidates to such positions.

Faculty members are encouraged to post such vacancies with the Office of Career Services. When the preferred candidate has been identified, the faculty member sends written authorization to the Senior Associate Dean for Academic Affairs and to the payroll office. Such authorization should include (a) the name of the student, (b) the number of hours assigned, and (c) the class or research project assigned.

### **COLLEGE POLICY ON SUBMISSION OF GRADES**

The Faculty must submit grades by approximately 30 days from the date of the last exam, subject to the discretion of the Associate Dean.

Adopted: December 11, 2002

### **COLLEGE POLICY ON SUMMER RESEARCH GRANTS**

*(Current policy under review by FAC for recommendation to Dean Howarth)*

Summer research stipends are available to support scholarship of faculty in the production of law review articles, legal treatises, or publications of similar significance. The availability of research stipends will be, in part, based on the financial resources of the College. The Senior Associate Dean for Academic Affairs will announce the guidelines for application in the spring term.

Initial grants are restricted to those faculty who propose to produce articles in those law reviews listed in the Index to Legal Periodicals. No faculty member will be eligible for a subsequent grant until s/he has published an article in a law review, or of at least law review quality, since the time of the last grant. It will be the goal of the College to offer research stipends equal to that of a three-credit summer teaching load. For the 2007-08 year, the stipend amount was \$12,000, with possible additional awards for exceptional achievement.

### **COLLEGE OF LAW COURSE FEE COURTESY PROGRAM**

The Course Fee Courtesy Program consists of the allocation of funds less than or equal to the cost of one-half of applicable Michigan resident undergraduate tuition for degree-granting programs (i.e., toward the first Bachelors degree) at Michigan State University. Course fees

shall be defined as the amount associated with credit hour enrollment and shall not include room and board, the registration fee or such fees, taxes and charges as may be collected for third parties.

If the dependent child or spouse/same-sex domestic partner who is the recipient of the Course Fee Courtesy Program drops courses or withdraws from school during the refund period, any refund applicable to the course fee courtesy will revert to the Law College.

*Eligibility:* Dependent children, spouses, and same-sex domestic partners (as recognized by MSU College of Law) of eligible faculty will be eligible for the course fee courtesy program if they qualify for admission to Michigan State University's undergraduate program under the normal admission procedures. Eligible faculty members are all faculty who are full time employees of the Law College. Eligibility begins at the start of the term most closely following the date of appointment. (For example, employees who begin on July 1st would be eligible for the program in the subsequent fall semester.)

Dependent children include (a) all legally dependent children (who are qualified dependents for federal income tax purposes) of eligible faculty; and (b) such children who have eligible faculty as their legal guardians. Dependent spouse shall be defined as the legally recognized spouse of an eligible faculty member. Domestic partner shall be defined as the MSU Law-recognized same-sex domestic partner. If both parents are employees of MSU College of Law and eligible for Course Fee Courtesy, the dependent child(ren) remain eligible for only on-half of the undergraduate tuition.

*Duration of the Benefit:* The course fee courtesy will be granted through the semester in which the 120th undergraduate credit is attempted. The course fee courtesy benefit will remain in effect provided that (a) the relationship between the student and the eligible employee does not change, (b) the employment relationship with the eligible faculty member is sustained, and (c) the dependent child or spouse/same-sex domestic partner is registered as a student in good academic standing at Michigan State University in a curriculum leading to the first baccalaureate degree. For eligible students with transferable credits, the course fee courtesy is granted through the semester in which the combination of transferable credits and Michigan State University credits attempted equals 120.

*Termination Criteria:* The Course Fee Courtesy for dependent children and spouses/same-sex domestic partners will be discontinued at the conclusion of the semester or summer session at which the employment of the eligible faculty member is terminated. This does not include approved leaves of absence that may be taken by the employee. The dependent children and spouse/same-sex domestic partner of an eligible faculty member who is placed on Long-Term Disability or who dies while on active service will retain eligibility as if the eligible faculty member were still working as long as the other eligibility requirements of the Course Fee Courtesy Program continue to be met.

*The College of Law Course Fee Courtesy Program is substantially similar to the University Course Fee Courtesy Policy.*

## **UNIVERSITY APPOINTMENT, REAPPOINTMENT, TENURE, AND PROMOTION RECOMMENDATIONS**

The Office of the Provost sends this policy annually to deans, directors, and chairpersons to assist them in reappointment, promotion, and tenure decisions. During its annual review, the University Committee on Faculty Affairs and the University Committee on Faculty Tenure can suggest changes.

Michigan State University is a research-intensive, land-grant university of international scope. It is a member of the Association of American Universities (AAU), whose members are recognized worldwide for the quality and breadth of their scholarship, research, and undergraduate, graduate and graduate-professional educational programs. MSU is one of only 18 universities that are designated as both land-grant and AAU.

"Boldness by Design" is MSU's strategic planning initiative that will position the University as the nation's leading land-grant research institution. The University is dedicated to educating tomorrow's leaders and scholars through our undergraduate, graduate, graduate-professional and lifelong education programs. Through its faculty, MSU will create knowledge and find new and innovative ways to extend its applications, to serve Michigan, the nation, and the international community. The faculty must infuse cutting edge scholarship into the full range of our teaching programs. At MSU, faculty are expected to be both active scholars and student-focused, demonstrating substantial scholarship and ability to promote learning through our on-campus and off-campus education and research programs. The essence of scholarship is the thoughtful discovery, transmission, and application of knowledge, including creative activities, that is based in the ideas and methods of recognized disciplines, professions, and interdisciplinary fields. What qualifies an activity as scholarship is that it be deeply informed by the most recent knowledge in the field, that the knowledge is skillfully interpreted and deployed, and that the activity is carried out with intelligent openness to new information, debate, and criticism.

MSU must improve continuously. To do so requires that academic personnel decisions must result in a progressively stronger faculty — a faculty who meets continuously higher standards that assures enhanced quality within a national and international context. This process begins with vigorous, effective recruitment and selection of new faculty who are encouraged and helped to grow professionally. These new faculty members are evaluated by demanding standards and required procedures for reappointment, tenure and promotion recommendations. Our policies, procedures, criteria, and decisions on recruitment, reappointment, award of tenure, promotions, and salary changes must be guided by the goal of enhancing academic excellence. These decisions, in large measure, will determine MSU's reputation and prominence for many years to come.

Initially, a review of the mission and goals of the University, college, and unit and their related personnel needs, fiscal constraints, and any other relevant factors must occur to determine if the applicable position(s) should be retained even if the performance of the probationary period is

acceptable. (See statement on Non-Tenured Faculty in the Tenure System, Faculty Handbook). If so, the unit initiates recommendations for appointment, reappointment, promotion, and tenure, following rigorous evaluation at the unit level, including peer review. All involved in these deliberations must apply high standards of performance consistent with appropriate expectations of faculty at leading research-intensive, land-grant universities. Faculty must be both active scholars and student-focused and must meet academic standards that assure enhanced quality of the unit for years to come. Individual personnel actions recommending tenure should result in the improvement of academic unit quality. For example, anyone considered for tenure should be viewed as exceptional in accomplishments in the unit and in the top echelon of peers at a similar career stage nationally or internationally in the field or discipline. Chairpersons and directors make the unit-level recommendations. Unit-level recommendations are subject to review and approval or disapproval at the college and university levels. Recommendations are to be based on explicit unit criteria and quality evaluations that are consistent with college and university policies and goals.

As provided in the 1978 Bylaws for Academic Governance, the faculty, operating in the advisory mode, is to provide advice to the chairperson/director as described in unit bylaws. Each department, school, and comparable unit is required to have procedures and criteria that are clearly formulated and relevant to evaluating the performance of faculty members (see Statement on Non-Tenured Faculty in the Tenure System, Faculty Handbook). The 1999 Bylaws for Academic Governance includes the following statement that is of fundamental importance:

The chairperson or director has a special obligation to build a department or school strong in scholarship, teaching capacity, and public service. (2.1.2.1.)

Chairpersons or directors make judgments taking into consideration peer evaluations and other supporting information, yet unit administrators are responsible as individuals for the recommendations made.

Unit standards and criteria for appointment, reappointment, tenure, promotion, and salary changes must serve the objective of continuously improving the academic strength and quality of the faculty, taking into account the mission and goals of the department, school, college, and University. Departments/schools and colleges are required to review regularly their standards, criteria, and procedures to this end.

Assessment of faculty performance should recognize the importance of both teaching and research and their extension beyond the borders of the campus as part of the outreach dimension. Assessment should take into account the quality of outcomes as well as their quantity; it should also acknowledge the creativity of faculty effort and its impact on students, on others the University serves, and on the field(s) in which the faculty member works. In many cases, faculty demonstrate excellence through individual scholarly activities. Collaborative scholarly efforts, cross-disciplinary activities, and the integration of scholarship into the creation, application, and dissemination of knowledge are also recognized as relevant dimensions of faculty performance.

Deans independently review each recommendation for appointment, reappointment, promotion, and tenure and in each case will focus primarily on how effectively the individual performs academic duties. They approve or disapprove recommendations, taking into account unit, college, and university criteria and other factors such as quality, progress, resources, program needs, percent of tenured faculty in the unit, and any other relevant university policies and goals

(see below).

The Office of the Provost will review each recommendation. In each case the Office of the Provost also will concentrate primarily on the evidence of the individual's effectiveness in the performance of academic duties. Within this context, faculty must demonstrate substantive and sustainable achievement in both teaching and research, and the infusion of this scholarship into outreach programs.

In addition, the Office of the Provost will consider, as applicable, the following elements, relating to quality and either individual performance or institutional, contextual factors:

The factors that relate most closely to individual performance include, but are not limited to:

1. Sufficient evidence of consistent and persistent professional improvement and effectiveness at MSU to predict continued professional achievement and growth for the remainder of the individual's academic career.
2. Evidence of actual and/or potential external competition for employment in the Committee on Institutional Cooperation (CIC)<sup>1</sup> Universities or institutions of comparable quality.
3. History of salary increases awarded the individual compared with others in the unit.
4. Evidence of having met the standards of the college and department/school for recommendation of appointment, reappointment, award of tenure, and promotion.

The factors that relate most closely to institutional, contextual factors include but are not limited to:

1. Standards of the college and department/school for recommendation of appointment, reappointment, award of tenure, and promotion, including the unit's progress toward achieving and maintaining diversity and recognizing it in its definition of quality.
2. Fiscal constraints.
3. Extent to which program commitments require the continuation of faculty (relevant primarily for decisions on reappointments and awards of tenure).
4. Advancement of the shared university agenda, including scholarship across the mission.

Deans and directors are to assure that unit administrators in their college make clear to the concerned faculty, in a timely fashion, the procedures and criteria that they will use in making tenure system reappointment and promotion recommendations. Forms for "Recommendation for Reappointment, Promotion or Tenure Action" outline many of the activities that are relevant to decisions on promotion, tenure and reappointment. As stated above, "academic administrators have the special obligation to build academic units strong in scholarship, teaching capacity, and public service". To discharge this responsibility, academic administrators must apply rigorous standards in making reappointment, tenure, and promotion recommendations. The achievement and performance level required must be competitive with faculties of leading research-intensive,

land-grant universities of international scope (hereafter referred to as peer universities):

1. Reappointment with award of tenure: Each tenure recommendation should be based on a clear record of sustained, outstanding achievements in education and scholarship across the mission, consistent with performance levels expected at peer universities.
  - a. For the assistant professor who has established such a record, the tenure recommendation is effective upon reappointment after two accumulated probationary appointments in the tenure system.
  - b. For the faculty member appointed initially as associate professor on a probationary basis in the tenure system who has established such a record, the tenure recommendation is effective upon reappointment after one probationary appointment period.
2. A recommendation for promotion from assistant professor to associate professor in the tenure system should be based on several years of sustained, outstanding achievements in education and scholarship across the mission, consistent with performance levels expected for promotion to associate professor at peer universities. A reasonably long period in rank before promotion is usually necessary to provide a basis in actual performance for predicting capacity to become an expert of national stature and long-term, high-quality professional achievement.
3. A recommendation for promotion from associate professor to professor in the tenure system should be based on several years of sustained, outstanding achievements in education and scholarship across the mission, consistent with performance levels expected at peer universities. A reasonably long period in rank before promotion is usually necessary to provide a basis in actual performance to permit endorsement of the individual as an expert of national stature and to predict continuous, long-term, high-quality professional achievement.

Bearing in mind the University's continuing objective to improve its faculty, the unit and college must refrain from doubtful recommendations of reappointment, tenure, or promotion. The dean must evaluate carefully each recommendation to ensure that it is well grounded and fully justified.

*Footnotes:*

<sup>1</sup>University of Chicago; University of Illinois; Indiana University; University of Iowa; University of Michigan; Michigan State University; University of Minnesota; Northwestern University; Ohio State University; Pennsylvania State University; Purdue University; University of Wisconsin-Madison.

## **UNIVERSITY PROMOTION OF TENURED FACULTY**

*This policy was issued by the Office of the Provost on December 8, 1997.*

Recommendations for the promotion of tenured faculty must be in accord with the provisions of the tenure system and provide the same procedural protections that are provided to non-tenured faculty as described in the statement on "Non-Tenured Faculty in the Tenure System." Specifically, tenured faculty are entitled to confer with the unit review group that is designated to make recommendations with respect to promotion before a decision is made in their case and, upon the written request from a tenured faculty member denied promotion, shall receive in writing from the department chairperson/school director the reasons for this decision.

## **COLLEGE IMPLEMENTATION PRACTICES FOR TENURE AND PROMOTION**

Michigan State University College of Law Policy on Tenure and Promotion

*Adopted by the Faculty on September 17, 1999 and by the Board of Trustees: February, 2000*

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**College Implementation Practices**

I. STATEMENT OF PURPOSE AND GOALS

A. Statement of Purpose

Teaching effectiveness, quality of scholarship, professional activity, and effective collegial involvement in faculty governance, committee work and support of meaningful student activities are all part of the obligations and responsibilities of full-time law school faculty members and, accordingly, are important considerations in the decisions on appointment, tenure and promotion. The underlying purpose of this policy is to develop excellence in scholarship, teaching, and community service within the context of the Board-approved College Mission Statement by attracting, recruiting, and encouraging the best possible candidates to the faculty. In support of this goal, the faculty, the Dean and the Board of Trustees intend to seek out and to hire and to retain faculty members whose credentials will add to the academic strength and national reputation of the College.

B. Goals

The goals of the Tenure and Promotion Policy are as follows:

1. To set standards that give candidates notice of the College's expectations;
2. To recruit and develop candidates who further the College's expectations and contribute to achievement of the College's goals as summarized in its Mission Statement;
3. To formulate methods that will assist the candidate in fulfilling the College's expectations, while encouraging innovative scholarship;
4. To enhance collegiality and discourage unproductive competitiveness amongst tenure-track faculty members;
5. To provide procedures for periodic review and to determine whether a candidate qualifies for promotion and tenure;
6. To encourage the development of excellence in teaching, scholarship, and service that will continue throughout the candidate's professional career; and,
7. To strive for continuous gains in the academic strength of the College.

## C. Additional Responsibilities of Faculty

In addition to the enumerated responsibilities of teaching, scholarship and service, a faculty member is expected to demonstrate a collegial attitude to all members of the Law College community including faculty, staff, and students. All faculty are expected to be present and available at the College on a full-time basis during the academic year. The receipt of tenure does not diminish the responsibilities of the individual faculty member toward the College.

## II. Tenure and Promotion Review Criteria.

The following criteria shall be considered in all tenure and promotion determinations: (1) Teaching Effectiveness, (2) Productive Scholarship and (3) Service Activities. Of these three, substantially greater weight will be accorded to excellence in teaching and scholarship than to service (See Section II.c.). Considerations which bear upon the evaluation of these criteria are discussed below.

### 1. Teaching

Faculty members must demonstrate excellence in teaching. Excellence in teaching includes the stimulation of critical thought, the development and improvement of professional skills, and the dissemination of knowledge about law and legal systems. The faculty recognizes and values many different teaching methodologies.

Evaluation of teaching effectiveness will primarily be the responsibility of the candidate's Advisory Committee (see Section III.C.1). The Advisory Committee and the Dean will visit classes, review course materials and written student evaluations and consult with the candidate. The following list, though not exhaustive, illustrates matters relevant to measuring the candidate's performance:

- a. Knowledge of the subject matter;
- b. Ability to induce, stimulate and require critical, thoughtful analysis of legal problems;
- c. Effectiveness of classroom presentation, which shall include,
  - i. Ability to communicate clearly and effectively;
  - ii. Enthusiasm for the subject matter;
  - iii. Ability to stimulate and maintain student interest;
  - iv. Innovation and imagination in the presentation of materials;
  - v. Maintenance of discipline and control in the classroom;
  - vi. Professional decorum in the classroom;
  - vii. Knowledge and utilization of technology in the classroom;
- d. Capability of evaluating student proficiency;
- e. Ability to devise meaningful and fair student evaluation procedures;
- f. Punctual and faithful meeting of classes;
- g. Adherence to the College's attendance policy;
- h. Maintenance of office hours and availability to students;
- i. Assistance in non-assigned curricular activities such as moot court, clinical programs, law review and similar activities;

- j. Prompt submission of examination grades; and,
- k. Receptivity to constructive ideas and observations;

## 2. Scholarship and Research

A fundamental part of academic life is the continual process of intellectual inquiry into issues of the law, jurisprudence and the full arena of associated topics. Tenure or promotion requires a demonstration of both interest and ability to engage in the intellectual activities of our academic profession and a commitment to a career of scholarly productivity. Toward this end, it is expected that the candidate for tenure during the probation period at the College, in addition to other writings, will write and publish or have accepted for publication at least two major pieces of scholarly writing to qualify for consideration for tenure and promotion, unless otherwise agreed by the faculty and the Dean at the time of the candidate's initial appointment and duly noted in the candidate's letter of appointment.

It is unlikely that anything of a lesser stature than law review articles will suffice.

Accordingly, a word about law review journals is appropriate. In law, unlike other disciplines, most journals, including most of the "best" journals, have no subject matter focus. Rather, they are published by and identified with law schools (e.g. Harvard Law Review, Indiana Law Journal). They serve the dual purpose of providing outlets for legal scholarship and a specialized learning environment involving a form of self-instruction for law students. The law journals are edited by students without significant faculty involvement. They are thus not refereed. Students accept and reject articles, edit them, require changes in them, and control the timing of their publication. A publication in some law journals will attract more attention than in others, which will enhance the scholar's reputation and contribute to the impact of the scholar's ideas. The ranking of student law journals does not necessarily mean, however, that the best articles are in the most prestigious journals.

Book reviews, classroom teaching materials, "survey of law" articles, bar journal pieces, and the like, while they can be important first steps for the promising scholar and are relevant to tenure and promotion decisions, do not evidence sufficient commitment and ability to satisfy the requirement of the major scholarly pieces. The major pieces must show potential for significant future contributions to the law. The major publications must demonstrate noteworthy additions to current legal scholarship and contain critical analysis, original synthesis and, where appropriate, proposed solutions. The major publications must also show potential for significant future contributions of equal or better quality to the intellectual development of the law.

## 3. Quality of Research

The quality of a candidate's research is the most important factor in evaluating the research product in connection with the tenure or promotion decision. The following list provides indices that are suggestive of what should be considered in judging quality.

- a. Nature of research product

The following attributes of research product are intended to be suggestive rather than inflexible:

1. Pure description - a clear explication of what a case, statute, regulation, or body of literature says. This category includes both a summary simplifying a larger quantity of law or other material and a clarification of more complicated law or raw material.
2. Analytical description - in addition to what is included in the preceding category, this category contemplates the identification of inconsistencies and the reconciliation of apparent inconsistencies.
3. Analysis - in addition to the preceding, this category includes commentary which adds insights of the author not coming directly out of the material; for example, the author might point out and explain why "non-statutory" review in administrative law is really "statutory."
4. Critical analysis - this category identifies written work in which the author develops a position through which he or she demonstrates the implications, justifications, or significance of the material under consideration.
5. Original synthesis - this category refers to the bringing together of the material under consideration in a "new way" by developing a new organizing principle or a new frame of reference.
6. Proposed solution - this category involves the presentation and defense of a solution to a problem through a proposed statute, regulation, or legal theory.

It is possible for a candidate to publish, or have accepted for publication, writings that fall within a category of writing not delineated above. Such publication(s) should be given proper weight, if determined to be of high quality and appropriate for tenure or promotion consideration. The faculty reserves the right, however, to make an independent evaluation of the quality of scholarship, despite literal satisfaction of the above criteria by the candidate. The mere fact of publication, standing alone, does not meet the requirements of this section.

#### Execution of Research Product

While it is impossible to delineate precisely the level of scholarship which will satisfy this requirement, the candidate's work must demonstrate:

1. an in-depth comprehension of an area or sub-area of the law;
2. the ability to organize and communicate ideas in a clear and concise manner;
3. mastery of the legal style of writing and footnoting;
4. creative analysis, including the development of novel theories or new insights; and,
5. the ability to master complex and/or difficult subject matter.

Writings that may be considered as meeting the requirements of the expected two major publications potentially include:

1. law review articles;
2. treatises;
3. books;
4. published casebooks containing substantial textual discussion, notes, or supplementary materials written by the candidate.
5. articles of major legal analysis appearing in major interdisciplinary journals.

Writings that may be considered in addition to those satisfying the requirement of two major publications include:

1. official or unofficial published explanations, comments or descriptions of statutes (e.g. reporter's notes or comments to a uniform or model statute);
2. drafting of final statutory text in the capacity of a primary drafter;
3. briefs and memoranda of law;
4. law-related book reviews;
5. practice manuals;
6. continuing legal education materials;
7. articles related to law written for publication in non-law review periodicals circulated within the profession (e.g. ABA Journal, Michigan Bar Journal);
8. articles related to law written for publication in periodicals circulated to the general public;
9. law-related speeches (whether or not published).

The fact that research product is not in one of the forms listed above does not preclude the research product from satisfying qualitative and quantitative criteria.

### C. Service Activities

Service to the organized bar, to professional organizations, and other activities, such as presenting papers or lecturing on legal topics, are consistent with the mission of a law school faculty member and are therefore relevant in assessing the overall suitability of a candidate. Credit may also be given for civic, charitable, or other service to the community. However, mere membership in an organization or merely attending its meetings is not sufficient. To be considered, the candidate's activities must involve him or her in a significant way in matters relating to law reform, legal education, public service or the like. Illustrative of this would be:

- a. Providing leadership in professional organizations;
- b. Presenting a research paper or serving as moderator or discussant at professional meetings;
- c. Preparing course materials or lecturing at continuing legal education programs;
- d. Serving as an officer in a public interest organization;
- e. Active involvement in civic, educational or charitable activities;
- f. Pro bono work;
- g. Collegial involvement in faculty governance at the College and University level;
- h. Support of student activities having an educational or professional focus; and,
- i. Professional participation in public service or governmental agencies.

While service on faculty committees or participation in governance is expected of all faculty members, a candidate who has engaged in extraordinary service to the institution should be given credit for the work. Service alone, however, will not warrant a grant of tenure. Likewise, a candidate who has failed to perform ordinary and expected service, such as regular attendance at faculty meetings, meaningful participation in faculty committee work, and grading examinations on a reasonably timely basis, may be denied tenure.

### **III. COLLEGE POLICY ON REVIEW, PROMOTION AND TENURE**

#### **1. Eligibility for Tenure**

It is the expectation that only in exceptional circumstances will tenure be awarded without a probationary period, or with a shortened probationary period. It is the expectation of the faculty that a candidate shall apply for tenure no later than after the completion of ten regular semesters or five years of service at the College. It is the further expectation of the faculty that a candidate applying for tenure at that time will have previously been promoted to the rank of Associate Professor of Law. (See Part C 1, below).

It is a College practice that a tenure candidate who is not awarded tenure in the sixth year of full-time regular law teaching shall be notified by the Dean prior to the end of the sixth academic year that employment at the College will be terminated as of the end of the seventh year.

#### **2. Request for Extension of the Probationary Period**

### **IV. UNIVERSITY POLICY ON STOPPING THE TENURE CLOCK/EXTENSION OF PROBATIONARY APPOINTMENT**

*The following statement was endorsed by the University Committee on Faculty Tenure; it was issued by the Office of the Provost on June 1, 1990 and revised on April 24, 1996, March 24, 1999, January 10, 2001, and April 13, 2005.*

The tenure system probationary appointment is extended automatically for one year for the following reasons:

1. Leaves of absence with or without pay that are six to twelve months.
2. Changes in appointment to 50% time or less for one year.
3. Upon request from a faculty member on approved leave of absence (paid or unpaid) for twelve weeks or longer for reasons related to the birth or adoption of a child. Automatic extensions for this reason are limited to two separate one-year extensions.
4. Immigration/visa status that does not permit the award of tenure for candidates who have been recommended for tenure.
5. An extension recommended as an outcome of a hearing and/or appeal conducted pursuant to the Faculty Grievance Procedure.

Additionally, extensions of the probationary appointment may be requested from the University Committee on Faculty Tenure (UCFT) for reasons related to childbirth, adoption, the care of an ill and/or disabled child, spouse, or parent; personal illness; to receive prestigious awards, fellowships, and/or special assignment opportunities; or other such serious constraints. In cases in which extensions of the tenure clock are not automatic, UCFT considers evidence bearing on the question of whether the circumstances justify exceptions to the standard procedures governing the tenure system. UCFT's role is not to evaluate the substantive issues recommended at the departmental or unit level, but to determine whether, given the circumstances of each case, the proposed decisions are consistent with the general interest of preserving the integrity of the tenure system.

To request an extension of the probationary appointment, the department chair or unit administrator must submit a memorandum to the Associate Provost and Associate Vice President for Academic Human Resources that includes the following information:

1. the specific reason delineated in this policy that justifies an exception to the standard procedures governing the tenure system;
2. clear explanation of the impact of the specified condition on the normal activities of the faculty member;
3. what is expected to be achieved at the end of the requested extension, including the prospects for success, and a description of the resources and/or proposed changes that will be made to facilitate success;
4. a current curriculum vitae and a one-page summary of prior assignments in teaching, research, outreach, and administrative duties during the previous three years for the faculty member seeking the extension;
5. endorsement and signatures of the faculty member, department chair or unit administrator, and dean.

Additionally, the department chair or unit administrator must provide written documentation from the department or school peer review committee that they reviewed the extension request and had an opportunity to render advice as appropriate. The committee's approval is not necessary.

Requests endorsed by the Office of the Provost will be considered by UCFT according to the standards specified herein.

### **Mentoring, Advising and Evaluating**

#### **1. Advisory Committee**

As soon as practicable in the candidate's first year at the College, the Faculty Advisory Council

as a shared responsibility with the Dean shall recommend to the faculty the appointment of a three-member committee of tenured faculty, hereinafter called the Advisory Committee. The function of this Committee is:

- a. to advise the candidate on matters relating to the law school and to his or her professional development;
- b. to monitor the performance of the candidate; and
- c. to report annually to the tenured faculty on his or her progress.

Annually, the Advisory Committee will visit at least 3 class sessions of the candidate, review any available course materials and student evaluations of his or her teaching, talk with current or former students, review any writings of the candidate or scholarly research work in progress, and meet formally with the candidate at least once to discuss his or her progress and goals for the coming year. The Committee will make a written report in the spring of the school year to the Dean and the tenured faculty on the candidate's performance in the areas of teaching, research and writing, and service activities. This annual report shall be shared with the candidate at least 2 weeks prior to submission to the tenured faculty. The candidate may respond, in writing, to the Advisory Committee's annual report, if the candidate wishes to do so. The candidate must submit his or her response to the Dean within ten days after receiving the Advisory Committee's report. The candidate's response shall be provided to the tenured faculty.

If it chooses to do so, the faculty may direct the Committee to give specific advice or instructions to the candidate in light of the report. Following consideration of the annual report by the tenured faculty, the Dean shall meet with the candidate to review the candidate's progress and objectives for the subsequent years.

## **2. The Dean**

In matters of appointment, promotion and tenure, the Dean shall independently review all relevant materials, consult with the faculty and with the individual candidate being considered for appointment, promotion and tenure. Commentary and all recommendations based upon the Dean's independent judgment shall be communicated to the candidate, the faculty and the Board of Trustees consistent with the provisions of this Policy for the Granting of Tenure and Promotion. In all cases, the Dean shall inform the Provost of all recommendations and proposed actions. In the case of a candidate for tenure, the Dean shall provide the Provost with a full set of material sufficiently in advance of the issue coming to the Board so as to allow a full evaluation of the application.

## **3. Application for tenure**

A candidate commencing the sixth year of service must apply for tenure in that year if he or she wishes to retain his or her position after expiration of the sixth year. In no event will tenure be granted by default. A candidate desiring to be considered for tenure must request the same in

writing not later than 30 days after the first day of classes in the fall semester if the candidate began teaching in the fall or 30 days after the first day of classes in the spring semester if the candidate began teaching in the spring. The request must be transmitted to the Dean, who shall notify the candidate's Advisory Committee of the request.

Within 30 days of a candidate's submission of a request for tenure review, the candidate must furnish the Advisory Committee and the Dean with a detailed biographical statement concerning the matters which, in the candidate's view, the Tenured Faculty should consider in reaching its decision. The statement should contain at least the following items: a list of college and university degrees, with honors if any; a list of courses taught, with special mention of any new courses or teaching techniques developed; a list of scholarly research, writing and other creative works, published and unpublished, and references to reviews thereof that have been published; a list of relevant prior and current employment, and prior and current professional associations; a list of memberships and activities in professional organizations; and a list of significant current and past activities in the areas of service. The Advisory Committee or the Dean may request additional information from the candidate.

During the evaluation year, the Advisory Committee shall perform the following functions:

- a. Assume primary responsibility in the first instance for gathering data and communicating information about the candidate to the tenured faculty.
- b. Visit at least three class sessions conducted by the candidate.
- c. Review all available course materials and student evaluations of the candidate's teaching performance and summarize same for the tenured faculty.
- d. Read and evaluate all of the candidate's scholarly research and writing and collect and read the reviews of outside readers appraising the candidate's scholarly work.
- e. At the instance of either a member of the committee or the candidate, meet with the candidate to obtain additional information or clarification of any information before the committee or to consider such additional data as the candidate may see fit to provide.
- f. Prepare a preliminary written report summarizing (1) classroom visitations, (2) reviews of research and writing, (3) course materials and student evaluations, and (4) the candidate's professional contribution and service to the law school and the community, together with any other materials the candidate has included with the candidate's submission. Such report shall be transmitted to the candidate at least 20 days prior to the meeting at which a tenure vote is to be taken. Within 5 days after receipt of the Advisory Committee's preliminary report, the candidate may submit in writing any comments on the report to the Advisory Committee for inclusion in its final report.

The Advisory Committee shall transmit its final report to the tenured faculty, the Dean, and to

the candidate at least 10 days prior to the meeting at which a tenure vote is to be taken. The candidate may submit to the Dean and the Advisory Committee a response to the Advisory Committee's final report. The response shall be made available to the tenured faculty at least 3 days prior to the meeting at which the tenure vote is to be taken.

#### **4. Final Consideration**

Prior to the end of the second regular semester after the candidate has requested a review, the Dean shall schedule a special meeting of the tenured faculty to consider the award of tenure. The candidate shall not be present at this meeting. After consideration of the Advisory Committee's report, submissions by the candidate, and full discussion, including dialogue between the Dean and the faculty, the tenured faculty shall vote by secret ballot. The vote of the tenured faculty is advisory to the Dean, however, the Dean is charged to give great weight to the advice of the faculty. To foster the full and forthright exchange of views, all deliberations will be kept in the strictest confidence by all participants.

#### **5. Notice to the Candidate**

Immediately following the vote on tenure, the Dean shall inform the candidate, in writing, of the outcome of the tenured faculty's vote and if the application is to proceed to the Board, within ten (10) days thereafter, shall submit to the candidate the written recommendation that the Dean will be presenting to the Provost and the Board of Trustees regarding the candidate's application for tenure. The Dean shall provide the tenured faculty with the written recommendation the Dean will be presenting to the Provost and the Board of Trustees regarding the candidate's application for tenure.

#### **6. Submission to Board of Trustees**

The Dean shall transmit the Dean's recommendation, the Advisory Committee's final report, and the tenured faculty's decision to the Provost and the Board of Trustees for final action. In taking final action the Board may accept or reject an application for tenure or take such other action as it deems necessary. If the Board has created a Board Committee to consider applications for tenure, then the Dean shall submit all written materials to the Committee in a timely manner. In the event the Dean's recommendation and the tenured faculty vote are inconsistent, the candidate shall have an opportunity to submit to the Board of Trustees for its consideration, in addition to the foregoing, a written response from the candidate. *(The future status of the Law College Board of Trustees will be determined by the integration deliberations.)*

### **IV. COLLEGE POLICY ON PROMOTION**

*(The future status of the College Board of Trustees will be determined by the integration deliberations.)*

#### **7. Designation of Rank**

The academic ranks recognized at Michigan State University College of Law for tenure-track positions are Assistant Professor of Law, Associate Professor of Law, and Professor of Law.

## **8. Assignment of Rank**

A person who has no prior law teaching experience in a tenure-track position ordinarily shall be hired with the rank of Assistant Professor of Law. It is expected that no candidate will be hired at this rank with tenure.

A person who has significant prior law teaching experience in a tenure track position or who has exceptional public or private professional experience may be hired with the rank of Associate Professor of Law, without tenure. In only the most unusual circumstances, may a person be hired with the rank of Associate Professor of Law with tenure. The hiring of a person at the rank of Professor of Law, however, shall include the grant of tenure at the time of hire.

## **9. Eligibility for Promotion**

# **COLLEGE FACULTY & FACULTY PROMOTION IMPLEMENTATION PRACTICES**

## **Promotion to the Rank of Associate Professor of Law**

A person who holds the rank of Assistant Professor of Law, and who has published, or has had accepted for publication, at least one major scholarly writing that meets the Promotion and Tenure Review Criteria established in the Policy on Faculty Tenure and Promotion and who is making satisfactory progress in meeting the standards for Teaching and Service Activities established in the Policy on Faculty Tenure and Promotion, may be promoted to the rank of Associate Professor of Law without tenure at the end of the third year of employment in a tenure track position at the College.

Upon receipt of an application from a person who holds the rank of Assistant Professor of Law for promotion to the rank of Associate Professor of Law, the members of the applicant's Advisory Committee shall evaluate and review the materials submitted by the applicant for consideration for promotion, consistent with the procedures established in Part III of the Tenure and Promotion Policy. The applicant's Advisory Committee shall make a recommendation to the tenured faculty and the Dean, and promotion will be recommended to the Dean upon the vote of a majority of the tenured faculty, present and voting. An affirmative recommendation and vote for promotion shall only be made if the tenured faculty is satisfied that the applicant will ultimately satisfy the requirements for the grant of tenure and promotion to the rank of Professor of Law. Following an affirmative vote of the tenured faculty, the Dean shall transmit the faculty's decision and the Dean's recommendation to the Provost and Board of Trustees for final action, consistent with the procedures established.

## **1. Promotion to the Rank of Professor of Law**

A person who holds the rank of Associate Professor of Law with tenure may be promoted to the rank of Professor of Law with tenure upon the publication or acceptance for publication of at least one additional major scholarly writing that meets the Promotion and Tenure Review Criteria document and who continues to meet the standards for Teaching and Service Activities or upon satisfaction of the written conditions established in the contract of hire, if any.

When a person applies for promotion to the rank of Professor of Law, an ad hoc committee of three tenured faculty who hold the rank of Professor of Law shall be appointed by the Dean after consultation with the Faculty Advisory Council. The ad hoc committee shall review and evaluate the materials submitted for consideration, submit the research product of the applicant to outside readers, and make a recommendation to those members of the tenured faculty who hold the rank of Professor of Law and the Dean. A recommendation that the applicant be promoted must be approved by a vote of a majority of those tenured faculty, present and voting, who hold the rank of Professor of Law. An affirmative recommendation and vote for promotion shall only be made, if those holding the rank of Professor of Law are satisfied that the applicant will continue to excel in teaching and scholarship for the duration of employment at the College. Following an affirmative vote and the advice of the faculty recommending promotion, the Dean shall transmit the faculty's decision and the Dean's recommendation to the Provost and the Board of Trustees for final action, consistent with the procedures established for the Granting of Tenure.

*Adopted Sept. 17, 1999; see also infra, Tenure and Promotion Policy.*

## **UNIVERSITY POLICY GOVERNING EXTERNAL LETTERS OF REFERENCE**

*This statement was endorsed by the University Committee on Faculty Affairs on March 14, 2006 and by University Committee on Faculty Tenure on February 8, 2006; it was issued by the Office of the Provost on May 3, 2006. Implementation is encouraged during 2006-07 and is required in 2007-08.*

External letters of reference are required for all reviews of tenure system faculty involving the granting of tenure or promotion. External letters of reference are required in order to ensure that individuals recommended have an achievement and performance level that is comparable with faculties of peer institutions. It is recognized that practices and procedures in units may vary; however, the process of soliciting external letters of reference must incorporate the following principles and procedures, which must be applied uniformly to all faculty in the unit. Any exception to these principles must be approved by the Office of the Provost prior to implementation.

External letters of reference must be submitted by regular mail on institutional letterhead and carry the evaluator's signature. When timing is critical, a letter may be submitted electronically, but must be followed by a mailed original.

All external letters of reference solicited and received must be included in the review materials. Unsolicited letters will not be included in the review materials.

If an external letter of reference is solicited and the referee fails to or declines to submit a letter of evaluation, this information shall become part of the candidate's review materials. If a reason is provided in writing, it shall become part of the candidate's review materials unless precluded by an agreement on confidentiality.

College/department/school procedures will specify the minimum number of external letters (with a recommended minimum of four).

The department chairperson/school director/dean of a non-departmentally organized college shall form a list of external referees. Department/school/non-departmentally organized college procedures will specify the number of evaluators to be suggested by the candidate, to which the department chairperson/school director/dean of a non-departmentally organized college (and others as provided by department/school/ college procedures) will add names. In accordance with college/department/school procedures, the chairperson/director/dean will determine which of the potential external referees will be asked to provide letters of reference.

College/department/school procedures will specify a proportion or number of external letters of reference to be solicited from persons suggested by the candidate.

Candidates must not discuss their case with prospective or actual external evaluators at any stage of the review process, except as provided by department/school/college procedures. Soliciting external letters of reference and providing materials to the referees is solely the responsibility of the department chairperson/school director/dean of a non-departmentally organized college. External referees must be professionally capable to evaluate the candidate's scholarly work objectively and to comment on its significance in the discipline. Letters must predominantly represent persons other than collaborators and in no case faculty formerly serving on the equivalent of the candidate's guidance committee when the candidate was a graduate student.

College/department/school procedures will specify the materials sent to external referees.

The unit administrator's request to an external referee must include:

- a. the unit's statement on confidentiality, which must be consistent with the University's statement as contained in the policy "Confidentiality of Letters of Reference for Reappointment, Promotion and Tenure Recommendations"
- b. a request to disclose any potential conflicts of interest

For each external referee, the unit administrator shall provide:

- a. Name, rank/title, institutional affiliation.
- b. Brief summary of the referee's qualifications or CV

- c. Name of the person who recommended the evaluator, e.g., candidate, chairperson/director/dean, or other (specified).
- d. An assessment of the evaluator's relationship to the candidate, including potential conflicts of interest.

## **UNIVERSITY POLICY ON CONFIDENTIALITY OF LETTERS OF REFERENCE FOR REAPPOINTMENT, PROMOTION AND TENURE RECOMMENDATIONS**

*The following policy was issued by the Office of the Provost on December 2, 1991.*

University policy on confidentiality of letters of reference is that all letters soliciting evaluation relative to reappointment, promotion, and tenure recommendations must include the unit's statement on confidentiality. Any deviation from the following statement must be less restrictive and must be reviewed by the Provost's Office.

“Your letter of evaluation, as part of an official review file, will be held in confidence and will not be disclosed to the faculty member under consideration or to the public except as required by law or University policy. In all such instances, the information made available will be provided in a form that seeks to protect the identity, privacy, and confidentiality of evaluators.”

In instances in which individual colleges, departments and schools wish to deviate from the referenced policy, the expectation of the Office of the Provost is that such policy deviations, which can only be less restrictive, would be developed in consultation with duly constituted faculty advisory groups as required by Section 2 of the Bylaws for Academic Governance. In addition, it is expected that such college, department, or school policies will be available to be reviewed by the Office of the Provost in advance of their distribution, both within the academic unit or to external reviewers. In this way there will be an opportunity to ensure the conformance of the unit's policy with this University policy and the law.

## **COLLEGE IMPLEMENTATION PRACTICE FOR EXTERNAL LETTERS OF REFERENCE (OUTSIDE READERS)**

The Dean shall submit the major research publications of a candidate for promotion or tenure to outside readers for review, for a total of at least four external letters of reference. The Advisory Committee shall create a list of at least five potential reviewers. Additionally, the candidate shall provide a list of at least five potential reviewers to the Advisory Committee. The Advisory Committee shall select at least 50% of the reviewers from the candidate's list in preparing the final list of recommended outside reviewers for the Dean, who will presumptively accept the recommendations. In any case in which the Dean chooses not to follow the Advisory Committee's recommendation, the Dean will consult with the Advisory Committee and advise

the Advisory Committee in writing of the basis for not accepting the Committee's recommendations prior to soliciting the external letters of reference.

The Dean's letter requesting an external letter of reference concerning the published research of a candidate shall include the following statements:

1. Your letter of evaluation will become part of an official review file, however, it will not be held in confidence from the candidate or the tenured faculty of the Law College. (*The Provost granted an exception in October, 2008 for this practice.*)
2. You are requested to disclose any relationship, including co-authorship, with the candidate and whether you perceive any potential conflicts of interest.

### **UNIVERSITY POLICY ON DISMISSAL OF TENURED FACULTY FOR CAUSE**

The following policy was approved by the Board of Trustees on March 16, 1967 and revised on May 5, 2006.

#### **Preamble**

The University is a community of scholars dedicated to the advancement of knowledge. Among the functions of a University is the establishment of a proper intellectual integrity among the faculty, between the faculty and the students, and between the faculty and the national and international academic community. This intellectual integrity is fostered by the creation of an environment of personal interaction and mutual trust whereby its members are mindful of their responsibilities to maintain standards of competence, and a proper attitude of objectivity, industry, and cooperation with their associates within and outside the University community. However, if the community is to be sustained it is necessary for it to take action when commonly held standards of conduct are violated. Thus, disciplinary action up to and including dismissal may be undertaken for cause, with dismissal being reserved for the most serious of cases. Dismissal or the threat of dismissal may not be used to restrain faculty members in their exercise of academic freedom.

#### **Grounds for Dismissal**

A tenured faculty member may be dismissed for cause, including but not limited to: (1) intellectual dishonesty; (2) acts of discrimination, including harassment, prohibited by law or University policy; (3) acts of moral turpitude; (4) theft or misuse of University property; (5) incompetence; (6) refusal to perform reasonable assigned duties; (7) use of professional authority to exploit others; (8) violation of University policy substantially related to performance of faculty responsibilities, and (9) conviction of violation(s) of law(s) which are substantially related to the fitness of faculty members to engage in teaching, research, service/outreach, and/or administration. 1, 2

If dismissal proceedings are initiated against a tenured faculty member and result in a finding of cause, dismissal or disciplinary action other than dismissal may be recommended and imposed. Disciplinary action other than dismissal may include, but is not limited to, reprimand, suspension with or without pay, reassignment of duties, reduction in appointment, denial of salary increase, mandatory counseling, and/or monitoring of behavior and performance.

## **I. UNIVERSITY POLICY ON INFORMAL RESOLUTION/PRELIMINARY CONFERENCE STAGE**

### **Dismissal for Cause Review Officer's Recommendation**

A dean or separately reporting director ("charging party") proposing to initiate dismissal for cause proceedings against a faculty member must file a written request with the Provost that details the reasons for considering dismissal and provides copies of all relevant documentation, including copies of any past disciplinary action or warnings to the faculty member that his/her conduct might lead to dismissal.

Upon receipt of such a request, the Provost shall notify the faculty member of the request and ask the Dismissal for Cause Review Officer (see Appendix III) to review the matter and to provide a confidential report and recommendation to the Provost as to whether dismissal for cause proceedings should be initiated and, if so, whether the faculty member should be relieved from any or all duties during the proceedings.

The review process is intended to provide an opportunity for informal resolution of the matter. Accordingly, meetings between the faculty member and the Review Officer and between the faculty member and the Provost during the review process will proceed without counsel present. At any stage during the review process, the faculty member may elect to forgo meeting or talking with the Review Officer or the Provost.

The Review Officer shall review the reasons for considering dismissal and the evidence in support of dismissal with the charging party. The Review Officer shall also talk with the charging party, faculty member, and the faculty member's department chairperson/school director, prior to making a recommendation to the Provost.

In reaching his/her recommendation, the Review Officer should consider what steps have been taken to achieve informal resolution of the matter; whether, in cases involving a pattern of conduct, the faculty member had any warning that the conduct might lead to dismissal; and whether any measures might be taken to resolve the matter short of instituting dismissal for cause proceedings. The Review Officer's report and recommendation should be forwarded to the Provost within 30 days<sup>3</sup> of the Review Officer's selection by the President, unless an extension of time is approved by the Provost.

### **Determination by the Provost**

The Provost shall review the report and recommendation of the Review Officer and determine whether the matter is of sufficient seriousness to warrant the initiation of dismissal for cause

proceedings.<sup>4</sup> In reaching his/her decision, the Provost may discuss the matter with the Review Officer, charging party, and/or faculty member.

The confidential report and recommendation of the Review Officer is advisory to the Provost<sup>5</sup> and shall not be available to either party or become part of the record if dismissal for cause proceedings are instituted.

### **Conference with the Faculty Member**

If the Provost determines that dismissal for cause proceedings are warranted, he/she shall notify the faculty member and the charging party (the "parties") of that decision in writing and offer the faculty member an opportunity for a personal meeting. No formal charges shall be filed until 30 days after this notification. The matter may be resolved informally during this time, including by the faculty member's resignation. If the faculty member is not available for a personal meeting during the 30-day period, the Provost may communicate with the faculty member by telephone and/or by correspondence that provides the faculty member with a reasonable opportunity to confer informally with the Provost.

## **II. UNIVERSITY POLICY ON MAILING OF NOTICES UNDER THIS POLICY**

Whenever possible, the faculty member shall be sent the notices required by this Policy by certified mail to his/her address of record filed with the University. However, if delivery by certified mail is not possible or if the faculty member refuses or waives delivery of certified mail, mailing notices to the faculty member at his/her address of record by first class mail will be considered sufficient. An email will also be sent to the faculty member's University email address notifying him/her of the fact that a notice required by this Policy has been sent by one of the methods described above.

## **III. UNIVERSITY POLICY ON INITIATION OF FORMAL PROCEEDINGS**

If the Provost determines that the matter is serious enough to warrant initiation of dismissal for cause proceedings, the Provost shall provide written notice of that determination to the President, along with a recommendation as to whether the faculty member should be relieved from some or all of his/her duties during the dismissal for cause proceedings. The parties should receive a copy of this notice. If the President decides to relieve the faculty member from all of his/her duties, the faculty member shall be placed on a leave of absence with pay during the pendency of the dismissal for cause proceedings.

Following written notification by the Provost to the President, the charging party may initiate dismissal for cause proceedings against a faculty member by filing written charges with the President and Chairperson of the University Committee on Faculty Tenure ("UCFT"). The

charges must contain: (1) the allegations; (2) the names of the witnesses, insofar as then known, who will testify in support of the allegations; and (3) the nature of the testimony likely to be presented by each of these witnesses.

The Chairperson of the UCFT shall promptly send a copy of the written charges to the faculty member.

#### **IV. UNIVERSITY POLICY ON MEETINGS BETWEEN THE PRESIDING OFFICER AND THE PARTIES**

As soon as practicable following the filing of formal charges, the Presiding Officer<sup>6</sup> shall meet with the parties. The purposes of such meetings include:

- a. The empaneling of a Hearing Committee (see Appendix I).
- b. Exchange of documents and witness lists between the parties.
- c. Stipulations by the parties on any relevant matters of fact. Any stipulation shall be reduced to writing and signed by both parties and the Presiding Officer.
- d. Rulings by the Presiding Officer on any proposed revisions to the charges that might be offered or requested.

The Presiding Officer may ask legal counsel to attend these meetings. The Presiding Officer shall arrange that minutes of these meetings are made and included in the complete case record.

#### **V. UNIVERSITY POLICY ON THE HEARING**

- a. Service on the Hearing Committee shall be a high priority University responsibility for the duration of the hearing. Accordingly, administrators of units shall take all reasonable measures to reduce the Hearing Committee members' other responsibilities. Unit administrators are encouraged to provide additional support (such as graders and graduate assistants) to Hearing Committee members for the duration of their service.
- b. The Secretary for Academic Governance shall make available to the Chairperson of the Hearing Committee any necessary secretarial and clerical assistance.
- c. Legal counsel to the Hearing Committee shall arrange for a full stenographic record to be made of the hearing. If any party requests additional copies of the record or an expedited copy of the record, the additional costs of that request shall be paid by the requesting party.
- d. The Chairperson of the Hearing Committee shall request the presence of any witness

or the delivery of any University document germane to the hearing. University administrators are expected to cooperate with such requests.

- e. The Chairperson of the Hearing Committee shall schedule the hearing within a reasonable time after the faculty member is provided notice of the charges against him/her, due consideration being given to the faculty member's opportunity for the preparation of a defense.
- f. The hearing shall be closed, except that the Hearing Committee may consider a request from the faculty member to open the hearing. If such a request is made, the Hearing Committee shall hear the views of both parties on the question and shall determine whether the hearing sessions are to be open or closed. Regardless of the faculty member's request, the Chairperson of the Hearing Committee may, in the interest of orderly and equitable proceedings, rule that a given session or portion of a session be closed. Sessions or portions of sessions that will involve student testimony or testimony that includes personally identifiable student information must be closed. Sessions that will involve non-student witness testimony may also be closed at the discretion of the Chairperson of the Hearing Committee.
- g. The Chairperson of the Hearing Committee shall conduct the hearing in accordance with the procedures stipulated in Appendix II.
- h. The charging party or his/her representative shall be present at all sessions of the Hearing Committee at which evidence is presented or arguments are heard, and may (1) present evidence, (2) call, examine, and cross-examine witnesses, and (3) examine all documentary evidence received by the Hearing Committee. The charging party's advisor or legal counsel (if any) may also be present at the request of the charging party.
- i. The faculty member and/or his/her representative may be present at all sessions of the Hearing Committee at which evidence is presented or arguments are heard, and may (1) present evidence, (2) call, examine, and cross-examine witnesses, and (3) examine all documentary evidence received by the Hearing Committee. The faculty member's advisor or legal counsel (if any) may also be present at the request of the faculty member. If the faculty member cannot be present at a hearing session due to circumstances beyond the faculty member's control, the Chairperson may either reschedule the hearing session or choose to conduct the hearing session in the absence of the faculty member. If the faculty member chooses not to be present, the Chairperson shall conduct the hearing sessions in the absence of the faculty member.
- j. The Provost (or his/her designee) shall be available to the Hearing Committee to provide guidance on policy or procedural questions. In the event that a policy or procedural question is at issue in the dismissal for cause proceedings, the Provost may choose to file a position statement with the Hearing Committee regarding the policy or procedural issue. In those cases, the Provost (or his/her designee) will not

serve in an advisory capacity to the Hearing Committee regarding policy or procedural questions.

- k. The burden of proof shall rest with the charging party. (See Section VI.A.2 of this Policy.)
- l. Except as provided below, only those members of the Hearing Committee who have been present at all sessions in which evidence has been presented or arguments have been heard shall have the right to vote. An exception to this attendance requirement shall be made by the Chairperson of the Hearing Committee for a member who has missed, for good cause, no more than one session and who has informed the Chairperson in writing that he/she has read the official transcript of that session. This attendance requirement may also be waived by unanimous consent of the parties.
- m. Within a reasonable time following final arguments, the members of the Hearing Committee will vote to determine whether cause has been established. If they determine that cause has been established, they shall recommend either dismissal or other disciplinary action(s). If a majority of the Hearing Committee determines that cause has not been established, the matter is closed.<sup>7</sup>

## **VI. UNIVERSITY POLICY ON PROCESSING THE RECORD AND RENDERING JUDGMENT**

- 1. Hearing Committee Report.
  - a. Within 30 days following the final arguments, the Hearing Committee shall submit its written report to the parties. If additional time is needed, the Chairperson of the Hearing Committee shall request an extension of time from the Chairperson of the UCFT.
  - b. The Hearing Committee report must include an explanation of its determination as to whether cause has been established. If the Hearing Committee determines that cause has been established, the report must also include an explanation of its recommendation for either dismissal or some other disciplinary action(s). A report which recommends dismissal for cause must state that at least one of the charges made against the faculty member has been proven by clear and convincing evidence.<sup>8</sup> A report which recommends discipline other than dismissal must state that at least one of the charges made against the faculty member has been proven by a preponderance of the evidence.<sup>9</sup>
  - c. Subject to subsection 4 below, all members of the Hearing Committee shall sign the report attesting that they have read it and that it constitutes the findings and recommendations of a majority of the Hearing Committee.
  - d. Any member(s) of the Hearing Committee may file and sign a minority report, which shall become part of the Hearing Committee report.

## Appeals

- a. Grounds for appeal are limited to whether the Hearing Committee committed a prejudicial violation of the required procedures (see Appendix II) during the hearing process.
- b. Either party may appeal the decision of the Hearing Committee to the then-current members of the UCFT, excluding the Presiding Officer and any members of the UCFT who served on the Hearing Committee. The remaining UCFT members shall constitute an appellate body ("the Appeal Panel") and shall select a chairperson by majority vote.
- c. A party wishing to appeal ("appellant") must submit a written appeal to the Chairperson of UCFT within 15 days after the date that the Hearing Committee report was mailed. The Chairperson of UCFT will transmit the appeal and a copy of the Hearing Committee report to the Appeal Panel and the appellee.<sup>10</sup>
- d. The appeal must be in writing and must specify the claimed procedural violation(s) on which the appeal is based.
- e. The appellee may submit a written response to the appeal. The response must be sent to the Chairperson of the UCFT and the party who initiated the appeal no later than 15 days after the date the appeal was mailed to the appellee.
- f. The Appeal Panel will convene to decide the appeal. The Appeal Panel will usually decide the appeal based on the written materials presented and in the absence of the parties. If necessary, the Appeal Panel may request that both parties present oral argument and/or respond to questions regarding the appeal. The Appeal Panel may impose reasonable limits on the time allotted for oral arguments.
- g. The Appeal Panel shall render a decision on the appeal within ten days of receiving all arguments. A decision will be made by a simple majority vote. In rendering a decision, the Appeal Panel may not amend the findings or the recommendations of the Hearing Committee. The Appeal Panel may reach one of the following determinations:
  - i. No violation found. The Hearing Committee did not commit a prejudicial violation of the required procedures during the hearing process.
  - ii. Harmless Error. Although a violation of the procedures occurred, it did not materially harm the appellant's ability to present his/her case fully.
  - iii. Rehearing. The Hearing Committee committed a prejudicial violation of the procedures during the hearing process which can and should be corrected by the original Hearing Committee.
  - iv. Rehearing/New Hearing Committee. The Hearing Committee committed a prejudicial violation of the procedures during the hearing process which has

tainted the hearing to an extent that correction by the original Hearing Committee is impossible. A new Hearing Committee must be established to rehear the case.

## 2. Final Hearing Committee Report

- a. After appeals and rehearings, if any, are concluded, the Hearing Committee's report shall be considered final and shall be sent to the President, the Provost, and the parties.
  - b. A copy of the complete transcript of the hearing shall be sent to the faculty member.
  - c. The Chairperson of the Hearing Committee shall file the complete record of the case with the Office of the Provost. The complete record shall contain: (i) the final Hearing Committee report, (ii) any Appeal Panel decision, (iii) meeting minutes (see Section IV above), (iv) the record required by part 11 of Appendix I, and (v) the transcript of the hearing. The complete record shall be held for review in the Provost's Office and shall be available to the President, the Provost, the Board of Trustees, and the parties, for their review, in a place designated by the Provost.
  - d. If the Hearing Committee finds cause, the Provost and the parties may, within 15 days of the date of the mailing of the Hearing Committee's report, review the record and file written comments with the Chairperson of the Hearing Committee and the President.<sup>11</sup>
3. The President, within a reasonable time, will review the Hearing Committee's report and provide his/her preliminary response in writing, accompanied by supporting rationale, to the Chairperson of the Hearing Committee, the Provost, and the parties.
  4. The Provost, the parties, and the Hearing Committee, through its Chairperson, may, within 15 days of the date that the President's preliminary response was mailed, submit written comments to the President about his/her preliminary response.
    - a. Following the 15 day period for submitting written responses, the President will issue a final report on the charges against the faculty member. Copies of the President's final report will be provided to the Chairperson of the Hearing Committee, the Provost, and the parties.
      - i. If the Hearing Committee and the President both determine that there is cause for disciplinary action but not dismissal, the President's final report will conclude the matter and the disciplinary action recommended by the President will be imposed.<sup>12</sup>
    - b. If either the Hearing Committee (by majority vote) or the President recommends dismissal, the President shall submit the following materials to the Board of Trustees: the final Hearing Committee report (along with any written comments), the preliminary response of the President, and the final report of the President. Any Trustee may have access to the complete record of the case.
    - c. The Office of the Provost shall provide notice to the parties of the date and time that

the Board of Trustees is expected to take action on the matter.

- d. After reviewing the relevant materials, the Board of Trustees may: (1) dismiss the faculty member for cause, (2) impose discipline other than dismissal, or (3) determine that cause has not been established and close the matter.

## VII. UNIVERSITY POLICY ON CONFIDENTIALITY

All proceedings and records of dismissal for cause proceedings shall be kept confidential to the degree permitted by the law. The Board of Trustees will decide on a case by case basis whether action taken by the Board pursuant to this Policy will identify the affected faculty member by name.

*Footnote:*

- 1. This Policy does not apply with respect to: (1) a tenure system faculty member's material misrepresentation made to the University in obtaining employment, or (2) cases where disciplinary action other than dismissal is sought. In such cases, the Policy and Procedure for Rescission and the Policy and Procedure for Implementing Disciplinary Action where Dismissal is not Sought, respectively, shall be followed.*
- 2. This Dismissal of Tenured Faculty for Cause Policy (the "Policy") also applies to the dismissal of non-tenured faculty appointed in the tenure system prior to the expiration of the term of appointment.*
- 3. Unless otherwise noted, references to "days" in this Policy refer to calendar days.*
- 4. The decision of the Provost as to whether the matter is serious enough to warrant initiation of dismissal for cause proceedings is not a determination regarding the merits of the charges against the faculty member and shall not be viewed as the Provost's agreement or disagreement with the charges against the faculty member.*
- 5. The Provost shall not comment on any information contained in the confidential report of the Review Officer at any stage of the dismissal for cause proceedings unless that information is also contained in the record of those proceedings.*
- 6. The Chairperson of the UCFT shall serve as the Presiding Officer for the selection of the Hearing Committee. In the event that one of the parties is from the same college as the Chairperson of the UCFT, the Associate Chairperson of the UCFT shall preside. If the Associate Chair is unable to serve, the most recent past UCFT Chairperson who is available shall preside. The Presiding Officer is not eligible to serve on the Hearing Committee or any Appeal Panel.*
- 7. If membership on the Hearing Committee has been reduced to four members (see Appendix I, part 11) and there is a "tie" vote on the issue of whether cause has been established, the Hearing Committee shall issue a split report as its decision to the parties and the matter will proceed.*
- 8. "Clear and convincing" means the standard of proof that is beyond a mere preponderance but below that of "beyond a reasonable doubt." The "clear and convincing" standard would be met where the members of the Hearing Committee have a firm belief that the facts in issue have been established.*
- 9. "Preponderance of the evidence" means that the existence of the fact in issue is more probable than not. The "preponderance of the evidence" standard would be met where the members of the Hearing Committee find that the evidence supporting one of the charges is more convincing than the opposing evidence.*

10. *The "appellee" is the party who did not file the appeal.*
11. *When provided an opportunity to comment, the Provost and parties are expected to confine their comments to the record and not introduce new information. However, the Provost may comment on procedural or policy issues at any time.*
12. *Disciplinary action implemented under this Policy may not be challenged through the Faculty Grievance Procedure.*

## **UNIVERSITY POLICY ON DISMISSAL OF TENURED FACULTY FOR CAUSE (Cont.)**

### **Appendix I**

#### Procedure for Empaneling a Hearing Committee

1. Except as noted in part 8, below, the Hearing Committee shall consist of five tenured faculty members who are serving as UCFT members on the date of the filing of charges under Section II of the Policy. One alternate will also be selected for potential membership on the Hearing Committee. The expiration of a member's term on the UCFT shall not affect continued service on a Hearing Committee.
2. In the presence of at least one other member of the UCFT, the Presiding Officer shall conduct a random drawing of the names of all tenured members of the UCFT, placing the names on a roster in order of drawing. This shall be the order in which members will be selected for service on the Hearing Committee. The Presiding Officer shall circulate the ordered roster promptly to the parties and to the members of UCFT. The Presiding Officer shall notify the parties of the date of the meeting at which the roster is drawn and the parties and/or their counsel may, if they choose, attend this meeting.
3. No sooner than two weeks after the circulation of the ordered roster, the UCFT shall meet in the presence of the parties to select the Hearing Committee. All eligible members on the roster are expected to attend. The Presiding Officer shall convene and preside over this meeting. If either party does not attend this meeting, the Presiding Officer may choose to conduct the meeting in the party's absence.
4. No later than five days before the selection meeting, any potential Hearing Committee member or potential alternate may make a written request to the Presiding Officer that he/she be excused for an appropriate reason. Requests to be excused shall be the first order of business during the Hearing Committee selection meeting. The Presiding Officer shall, if necessary, question members seeking to be excused and then decide whether to excuse any of them.
5. The Presiding Officer shall question each potential Hearing Committee member/alternate about his/her personal or professional relationships, if any, with either party, and ask whether there is any reason he/she would be unable to hear the case and render a fair and impartial judgment. The parties may submit additional questions to the Chairperson. The Chairperson may disallow any questions on grounds of lack of relevance.
6. Each party shall have an unlimited number of challenges for cause and one peremptory challenge. The Presiding Officer shall preside over the challenge process. If a party challenges

a potential member/alternate of the Hearing Committee for cause, the party shall state the grounds for the challenge. The standard the Presiding Officer shall follow in ruling on for cause challenges is whether, in light of the challenged person's knowledge of the case, personal or professional relationships with a party, and statements made during the selection and challenge process, the challenged person would be able to fairly and impartially hear the case and render a fair and impartial judgment. The Presiding Officer shall rule on any challenge for cause.

7. If a potential member/alternate is removed from the Hearing Committee roster, the next name on the ordered roster will be advanced to keep the potential membership of the Hearing Committee at six (five members, one alternate). All such replacements are subject to the selection procedures described above.
8. Should the roster of candidates for membership on the Hearing Committee be reduced to less than six, the roster of candidates shall be replenished by randomly selecting available former tenured members of the UCFT in order of most recent service on the UCFT. (All available former tenured members who served during the previous academic year will provide the first supplement, then those who served two academic years ago, and so on.) Should replenishment of the roster be necessary, the Presiding Officer shall identify supplementary candidates in a number sufficient, in the judgment of the Presiding Officer, to fill the Hearing Committee and provide one alternate. Ordering and selection of Hearing Committee members from the supplementary panel shall proceed in the manner described above.
9. The Hearing Committee shall be composed of the first five present or former UCFT members remaining on the ordered rosters after the completion of the process described above. The next remaining member on the ordered roster will be designated as an alternate.
10. If, prior to the hearing of evidence, any Hearing Committee member is unable to continue service on the Committee, the UCFT shall appoint the alternate as the replacement member. If, due to attrition, the Hearing Committee membership is reduced to four after hearing evidence has begun, the hearing process shall continue. Further attrition shall result in reinitiation of the process.
11. The Presiding Officer shall arrange that a record of the Hearing Committee selection process be made and become part of the official case record. Upon request, a copy will be provided to the parties.
12. After the selection of the Hearing Committee, the Hearing Committee shall elect its Chairperson from its membership by majority vote. The Hearing Committee Chairperson shall be in charge of the hearing process from this point until the Hearing Committee has submitted its report and recommendations.
13. The University shall provide legal counsel for the Presiding Officer and for the Hearing Committee.

## **Appendix II**

Procedure for the Hearing:

1. The Chairperson of the Hearing Committee shall be in charge of the hearing.
2. Legal counsel for the Hearing Committee may be present at all hearings and deliberations.
3. Hearing sessions may be scheduled, at the discretion of the Chairperson, on any weekday, weekends during the hours from 8:00 a.m. to 10:00 p.m., or, by unanimous consent of the parties and Hearing Committee members, on University holidays. Reasonable efforts shall be made to accommodate the scheduling requests of the parties and Hearing Committee members.
4. All discussions and votes by the Hearing Committee shall be in executive session. Minutes will not be taken of such sessions and any notes taken during such sessions will not become part of the record of the case.
5. The hearing shall be conducted in an informal manner to the greatest extent possible. Formal rules of evidence do not apply.
6. The Chairperson of the Hearing Committee may, in his/her discretion, exclude evidence, including witness testimony, if the Chairperson determines that such evidence is not relevant to the charges at issue.
7. The Chairperson of the Hearing Committee shall read the charges against the faculty member.
8. The Chairperson of the Hearing Committee shall request an initial statement summarizing the faculty member's responses, which may be presented by the faculty member or his/her advisor or legal counsel.
9. The charging party (or his/her representative, advisor, or legal counsel) shall present documents/testimony to support the charges. The faculty member and his/her advisor or legal counsel have the right to cross-examine all witnesses. The Hearing Committee will normally withhold questions until the cross-examination of the witness has been completed.
10. The faculty member (or his/her representative, advisor, or legal counsel) shall present documents/testimony to refute the charges. The charging party and his/her legal counsel have the right to cross-examine witnesses. The Hearing Committee will normally withhold questions until the cross-examination of the witness has been completed.
11. After the faculty member's witnesses have completed their testimony, including any cross-examination, the charging party may present rebuttal evidence. Rebuttal evidence shall be limited to new matters introduced in the faculty member's case. Surrebuttal evidence (limited to evidence rebutting the charging party's rebuttal evidence) shall also be allowed.
12. The charging party (or his/her representative, advisor, or legal counsel) shall present his/her

closing argument.

13. The faculty member (or his/her representative, advisor, or legal counsel) shall present his/her closing argument.
14. The Hearing Committee shall deliberate to prepare its report and recommendations.

### **Appendix III**

#### Procedures for Selecting Dismissal for Cause Review Officer

1. A panel of ten tenured faculty members shall be established from which one shall be selected by the President of the University to advise the Provost when a dean or separately reporting director proposes to initiate dismissal for cause proceedings against a faculty member under Section I of the Policy. The reviewer, called the Dismissal for Cause Review Officer, or the Review Officer, may not be from the same college as the faculty member against whom charges may be filed or the dean/separately reporting director filing the charges.
2. The panel shall be composed of tenured faculty members selected by the President in consultation with the Chairpersons of the UCFT and University Committee on Faculty Affairs. It is preferable for panel members to be tenured faculty selected who have (a) experience in chairing grievance panels, standing or ad hoc committees, (b) training or experience in grievances, arbitration, and/or mediation, or © legal training.
3. Panel members shall serve at the pleasure of the President, with vacancies filled in accordance with the procedure stated above.

#### **UNIVERSITY POLICY ON INTERPRETATION OF THE TERM "INCOMPETENCE" BY THE UNIVERSITY COMMITTEE ON FACULTY TENURE**

1. Incompetence is one of several possible causes for the discipline or dismissal of tenure system faculty members.<sup>1</sup> Exercising its authority under sections 4.7.4 and 4.7.5 of the Bylaws for Academic Governance, the UCFT issued this statement on March 24, 1999 as an interpretation of the term "incompetence" in the Dismissal of Tenured Faculty for Cause policy, one of the "rules of tenure" at Michigan State University.

#### **Interpretation**

As used in the University policy on Dismissal of Tenured Faculty for Cause, the term "incompetence" refers to faculty performance of assigned duties and responsibilities. Faculty members may be found to be incompetent if:

1. their performance is judged to be substantially below their relevant unit's(s') standards and criteria for acceptable faculty performance;
2. they have been offered a meaningful development opportunity, the goal of which is to improve their performance to meet their relevant unit's(s') standards and criteria for acceptable faculty

performance; and

3. they have not improved their performance to meet the relevant unit's(s') standards and criteria as a result of development activities within a reasonable time period.

### **Expectations for Implementation**

In issuing this interpretation, the University Committee on Faculty Tenure expects the following will apply:

1. Dismissal of faculty members for incompetence is an extreme remedy, and other avenues, including the disciplinary procedures described in the Policy and Procedure for Implementing Disciplinary Action Where Dismissal Is Not Sought, should be carefully considered as possible alternatives to correct unacceptable performance.
2. Colleagues in departments and schools play a primary role in determining if individuals are competent to serve as faculty members at Michigan State University. The search, appointment and tenure processes provide the mechanisms that units use to judge whether an individual is suitable for appointment to the faculty. Similarly, units (and especially the department chair) have primary responsibility to identify those rare cases where faculty members belonging to their unit are no longer competent to perform their duties at an acceptable level. The annual review of faculty performance plays a central role in evaluating faculty performance and communicating with faculty about the strengths and weaknesses of their performance. The University community expects that each department, college, and school has in place a process of annual faculty review consistent with the statement on Faculty Review issued on February 11, 1997.
3. Performance reviews in different units use different terms to describe levels of performance. Whatever the specific label, unacceptable performance is performance of duties at such an unsatisfactory level that it cannot be allowed to continue. Because of the serious consequences of this evaluation, it is recommended that faculty colleagues in the department or school (or, if necessary, from outside the university) review a unit administrator's determination that an individual's performance is unacceptable.
4. Faculty members whose performance is found to be unacceptable must reasonably expect to know in writing:
  - a. which standards and criteria they must meet to reach acceptable levels of performance in the relevant unit(s);
  - b. within what time period their performance must be remediated; and
  - c. the developmental opportunities in which they should engage to remediate their performance.
5. The University Committee on Faculty Tenure's statement entitled "Long-Term Disability: An Interpretation of the Tenure Rules" will continue to govern situations involving a tenured faculty member's physical or mental incapacity to carry out the responsibilities for which he or

she was appointed.

6. A faculty member's choice of topic or subject for scholarly research or creative endeavors is an exercise of her or his academic freedom rights. Particularly in evaluating unpopular, unfashionable, or unusual research or creative scholarly activities, care must be used to ensure that faculty members' academic freedom rights are respected. In such cases, external peer review should be obtained.

*Footnote:*

*I Policy and Procedure for Implementing Disciplinary Action Where Dismissal Is Not Sought and Dismissal of Tenured Faculty for Cause.*

### **UNIVERSITY POLICY AND PROCEDURE FOR IMPLEMENTING DISCIPLINARY ACTION WHERE DISMISSAL IS NOT SOUGHT<sup>1</sup>**

*The following policy was approved by the Board of Trustees on June 11, 1993.*

A faculty member may be disciplined for cause including but not limited to (1) intellectual dishonesty; (2) acts of discrimination, including harassment, prohibited by law or University policy; (3) acts of moral turpitude; (4) theft or misuse of University property; (5) incompetence; (6) refusal to perform reasonable assigned duties; (7) use of professional authority to exploit others; (8) violation of University policy substantially related to performance of faculty responsibilities; and (9) violation of law(s) substantially related to the fitness of faculty members to engage in teaching, research, service/outreach and/or administration. Discipline or the threat of discipline may not be used to restrain faculty members in their exercise of academic freedom.

Where disciplinary action short of dismissal for cause is sought, the unit administrator, after consultation with the Dean or separately reporting Director and the Office of the Provost, shall provide the faculty member with written notice of the cause for disciplinary action and an opportunity to respond prior to the imposition of any disciplinary action.

After receiving the response, the unit administrator shall make a decision regarding the disciplinary action and notify the faculty member in writing. The faculty member may challenge the imposition of any disciplinary action by the unit administrator by filing a grievance under provisions of the Faculty Grievance Procedure. The processing of such grievance shall be expedited. No disciplinary action, except temporary reassignment of duties or temporary suspension with pay, shall be implemented during the pendency of the grievance.

Disciplinary action may include but is not limited to reprimand, suspension with or without pay, reassignment of duties, foregoing salary increase and/or benefit improvements, and mandatory counseling and/or monitoring of behavior and performance. Suspension without pay may not exceed six months.

All proceedings and records with regard to disciplinary action shall be confidential insofar as the law permits.

*Footnote:*

*<sup>1</sup>In this policy, "Provost" means "Office of the Provost" and that the Associate Provost and Associate Vice President for Academic Human Resources (or other administrator in the Provost's Office) has been delegated responsibility for this role in order to clearly separate any future decision making required by the Provost pursuant to the Faculty Grievance Procedure with respect to implementation/enforcement of this policy.*

## **UNIVERSITY INDEMNIFICATION POLICY**

*The following policy was approved by the Board of Trustees on March 15, 1974 and revised on September 2, 1983.*

Michigan State University will support its trustees, officers, faculty, and staff when acting in the performance of assigned duties on behalf of the University. This policy also applies to students while engaged in approved academic programs and volunteers who are performing services for the University with prior written approval of the appropriate University official. The University will defend, save harmless, and indemnify such persons against any suit or proceeding, wherever brought, premised upon the fact that he or she is or was a member of the Board or an officer, employee, student, or volunteer of the University. The indemnity extends to expenses including attorney fees, judgments, fines, and amounts paid in settlement, actually and reasonably incurred, and with respect to any criminal action or proceeding where such person had no reasonable cause to believe that his or her conduct was unlawful. As a condition of indemnification, the trustee, official, employee, student, or volunteer is required to cooperate fully on a continuous basis with the University Attorney and the Office of Insurance and Risk Management.

## **POLICY ON REAPPOINTMENT AND PROMOTION OF FIXED TERM FACULTY**

Pertinent Bylaws sections are 1.3.2 (definition of fixed term faculty) and 1.4.3.1, 1.4.3.2, and 1.4.3.3 (appointment and promotion or reappointment).

### **I. RANK AND TITLE**

Per Bylaw section 1.3.2, fixed term faculty members are employed as assistant professors, associate professors, and professors.

In general, fixed term faculty members' titles shall be Assistant Clinical Professor of Law, Associate Clinical Professor of Law, or Clinical Professor of Law.

### **II. REAPPOINTMENT, PROMOTION, AND RETENTION**

Reappointment means appointment at the same rank under a fixed term contract. Assistant professors and associate professors without a rolling contract may be reappointed. Associate

professors without a rolling contract and assistant professors may hold the same rank for no more than four years.

Promotion means movement from assistant professor to associate professor, from associate professor on a fixed term contract to associate professor with a rolling three-year contract, and from associate professor to professor with a rolling five year contract.

Retention means continued employment as an associate professor with a rolling three-year contract or as a professor with a rolling five-year contract. Assistant professors and associate professors on fixed term contracts may not be retained.

### III. PROCESS OF REAPPOINTMENT, RETENTION, AND PROMOTION

The process of application and consideration shall be governed by Bylaws sections 1.4.3.1, 1.4.3.2, and 1.4.3.3. The applicant shall prepare a report presenting materials justifying reappointment, retention, or promotion.

Pursuant to Bylaws section 1.4.3.1, the Faculty Advisory Council shall make a recommendation to the faculty, and the faculty permitted to vote as provided by this policy, by an affirmative vote of those present and voting, shall advise the Dean.

For promotion to associate professor with a fixed term three year contract or a three-year rolling contract, all tenured members of the regular faculty shall be entitled to vote.

For promotion to professor, tenured faculty holding the rank of full professor may vote on promotion.

#### A. Process for candidates hired at the rank of assistant professor

Assistant professors shall be hired on a one year or three year fixed term contract.

An assistant professor who has served fewer than four years on a fixed term contract may apply for reappointment for up to a total of four years at the rank of assistant professor.

An assistant professor must apply for promotion to associate professor in the third year of full-time employment as an assistant professor unless the assistant professor is reappointed to a fourth year. If reappointed to a fourth year at the same rank, a fixed term faculty member must apply for promotion in the fourth year.

Associate professors shall have an initial, fixed term, three-year contract that may be followed by reappointment for one additional year. In the second year of full-time employment as an associate professor on a fixed term contract, the associate professor may apply for promotion to associate professor with a rolling three-year contract or for promotion to professor with a rolling five-year contract. Unless reappointment for a fourth year is granted, in the third year of full-time employment as an associate professor on a fixed term contract, the associate professor must apply for promotion to associate professor with a rolling three-year contract or to professor with a five-year rolling contract. If an associate professor is granted a fourth year at the same rank, the

associate professor must apply for promotion in the fourth year.

An associate professor with a rolling three-year contract is not required to apply for promotion to professor.

An associate professor with a fixed term contract seeking promotion to professor may be promoted to associate professor with a rolling three-year contract, rather than promoted to professor with a five-year rolling contract. If an associate professor with a rolling three-year contract seeks promotion to professor and promotion is denied, the associate professor shall be retained as an associate professor with a rolling contract.

Professors shall have a rolling five-year contract.

With permission from the Dean, a fixed term faculty member may apply for promotion earlier than otherwise allowed under this policy.

#### B. Additional process for promotion to professor with a rolling five-year contract

When a person applies for promotion to the rank of professor, an ad hoc committee of three faculty members shall be appointed by the Dean, after consultation with the Faculty Advisory Council. The ad hoc committee shall be composed of two tenured faculty who are professors of law and one fixed term faculty who is a fixed term professor. If there are no fixed term professors, the committee shall be composed of three tenured faculty who are professors of law.

The ad hoc committee shall review and evaluate the materials submitted for consideration by the applicant. The applicant shall submit a list of three qualified outside evaluators. The ad hoc committee shall choose two qualified outside evaluators, at least one of which is from the applicant's list. Within his or her competence to judge, the outside evaluator shall submit to the ad hoc committee comments on quality of teaching; contributions to a program, if relevant; service; and additional achievements.

The ad hoc committee shall make a recommendation to the Faculty Advisory Council concerning the applicant. Pursuant to Bylaws section 1.4.3.1, the Faculty Advisory Council shall make a recommendation to the faculty, and the faculty permitted to vote as provided by this policy, by an affirmative vote of those present and voting, shall advise the Dean on the promotion of fixed term faculty members to professor.

#### C. Lateral Hires

At the time of the initial hire, the Committee on Faculty Appointments and the regular faculty, per Bylaws section 1.4.2.3, by an affirmative vote of the majority of those present and voting, may recommend to the Dean that a candidate for fixed term position be hired as associate professor or

professor as defined above.

#### IV. DUTIES AND STANDARDS FOR PROMOTION AND RETENTION

##### A. Duties of Fixed Term Professors

###### 1. Teaching

Teaching is the central responsibility of fixed term faculty. At every level of experience, a fixed term faculty member should aspire to become or remain an excellent teacher, the standard required for award of a rolling contract to an associate professor. Assignment of additional administrative duties is the prerogative of the Dean and shall not be considered in evaluation of teaching, although administrative duties may result in a reduction of teaching load.

Fixed term faculty should consistently engage students in active learning that assists students to acquire knowledge, understanding, skills, and professionalism, although adherence to any particular teaching methodology is not required. Their teaching should demonstrate sustained:

- mastery of all subjects taught;
- ability to motivate students, challenge them to think rigorously and critically, and prompt them to explore subjects creatively;
- ability to communicate well with students in a variety of settings;
- accessibility to students outside the classroom;
- habits of professionalism, including treating all students with respect;
- encouragement of professionalism in students and their work product;
- thoughtful, effective course design;
- effective, timely assessment of student learning;
- selection, design, and creation of appropriate teaching materials and curricula fostering competence and creativity;
- success with a variety of teaching methods; and
- creative engagement with the art of teaching and mentoring.

Upon a candidate's application for reappointment or promotion, the Faculty Advisory Committee shall assess teaching by arranging a minimum of one classroom visit and considering, at least:

- student evaluations;
- teaching materials developed by the candidate individually and, in the case of programs, in collaboration with other members of the program;
- examples of evaluated student work-product; and
- the materials the candidate submits in his or her report.

###### 2. Participation in a Program

Appointment in a particular area, for example, the Research, Writing, and Advocacy program, the Clinical Law programs, or the Alternative Dispute Resolution program, carries with it additional responsibilities described in Section V below.

### 3. Service

Fixed term faculty also have duties of service to the law school and university. Service may include, for example, attending faculty and committee meetings; assisting students with upper level writing requirements, law review, or moot court; working with student organizations; and other opportunities for service that arise.

### 4. Other Optional Activities

Recognizing the time-consuming nature of teaching well, particularly in some of the courses regularly taught by fixed term faculty, the law college encourages, but does not require, the following: presentations, publication, attendance or participation in local and national professional organizations, teaching other courses in the law college and outside of it, pro-bono representation and briefs, public interest consulting, professional participation in public service or governmental agencies, serving as an officer in a public interest organization, or other forms of service to the greater legal community and the public good. These activities are commended, but are not required for promotion to associate professor with a rolling three-year contract.

### 5. Additional Achievement for Appointment as Professor

Promotion to professor recognizes sustained excellence in the duties described above and program duties, if any, described below coupled with other exceptional accomplishments of the type enumerated in section 4 above (Other Optional Activities); other activities in local, national, or international associations that make a national or international contribution; or signal contributions to the Law College.

## B. Standards

Reappointment as an assistant professor on fixed term contracts requires effective performance of the duties described above and program duties, if any, described below.

Promotion from assistant professor to associate professor and reappointment as an associate professor on fixed term contracts for up to four years requires commendable performance of the duties described above and program duties, if any, described below that demonstrates progress toward excellence in performance of those duties.

Promotion from associate professor with a fixed term contract to associate professor with a rolling three-year contract recognizes excellent performance of the duties described above and program duties, if any, described below.

Promotion from associate professor to professor recognizes additional exceptional accomplishments required for appointment as a professor and sustained excellent performance of the other duties described above and program duties, if any, described below.

## V. ADDITIONAL DUTIES OF FIXED TERM FACULTY IN PARTICULAR PROGRAMS

### A. Research, Writing, and Advocacy (RWA) Program

Fixed term faculty in the RWA program have an additional duty to contribute to the overall success of the program through professional team work and collegial participation. Hallmarks of excellent participation in the RWA program include, but are not limited to:

- attendance at RWA faculty meetings;
- timely preparation and critique of materials for the RWA program;
- sharing of insights about, and techniques for, teaching; and
- general willingness to assist other members of the program.

The Faculty Advisory Council shall arrange for evaluation of this duty by, for example, soliciting reports from other members of the RWA program or other appropriate means.

#### B. Clinical Law Programs

Fixed term faculty in the Law College's Clinical Law Programs not only are expected to impart professionalism and the need for collegiality to their students, they also must demonstrate these attitudes in their work with each other. Among the many opportunities that will present themselves to demonstrate superior professional and collegial behavior in clinical work are the following:

- Seeking and implementing ways in which individual Clinics can work collaboratively;
- Actively participating in Clinic faculty/staff meetings, Clinic retreats, and other in-house venues designed to inform about and enhance clinical work;
- Disseminating to each other educational information obtained through reading, attendance at conferences, meetings, and lectures, etc.; and
- Volunteering for assignments that promote or enhance the Clinics as a whole and carrying out those assignments in a timely, effective manner.

The FAC shall determine how to evaluate this responsibility.

#### C. Alternative Dispute Resolution Program

Fixed term faculty in the Law College's ADR Program should be evaluated by the standards articulated for Clinical Faculty where applicable and, in addition:

- Effective teaching, including clinical and ADR competition components;
- Skills in administering a clinical program (if applicable);
- Service to the academic and legal community, including civic and charitable organizations; and
- Performance objectives identified in consultation with the dean to advance the program.

### VI. REVIEW AND TERMINATION OF FIXED TERM FACULTY DURING THE CONTRACT PERIOD

Fixed term faculty members shall be reviewed by the Dean at least annually.

Contracts of fixed term faculty may be terminated for cause pursuant to the MSU policy entitled "Dismissal for Cause Fixed-Term Faculty - Academic Staff" or because of elimination or material modification of the faculty member's program if the faculty member teaches in a program during the contract period.

A rolling contract continues to roll subject to a positive review by the Dean. After two consecutive, negative reviews, the Dean may convert a rolling contract to a three-year or five-year fixed term contract. Before the end of the contract term, the Dean may reinstate the rolling contract after one or more positive reviews. Throughout this process, the Dean is to consult the director(s) or other members of fixed term faculty member's program, if any.

## VII. APPLICATION OF POLICY TO FIXED TERM FACULTY EMPLOYED AT DATE OF IMPLEMENTATION

### A. Title

1. [Current fixed term faculty whose title does not represent their current rank under this policy may retain their current title.]
2. For fixed term faculty referred to under Sections VII.A.1, title is independent of contractual relation with the college, and the fixed term faculty member's rank is determined under this policy by whether the current contract is rolling or fixed and the length of service at the time this policy is enacted.

### B. Continuation of Employment for Current Fixed Term Faculty to Allow for Adequate Notice of the New Policy

If a current fixed term faculty member is performing according to the terms of the faculty member's current contract, then he or she may, at the faculty member's discretion, receive a two year contract extension beginning July 2009, during which time the faculty member must apply for promotion according to the terms of this policy, if continued employment is desired.

### C. Service

Current fixed term faculty members who were not assigned to committees before July 2009 will not be evaluated on non-performance of service during the period preceding July 2009.

## APPENDIX I

### **Search and Rating Procedure for the Position of Dean of the College of Law - Michigan State University** *(used in the Fall 2007 Search)*

Pursuant to the University Bylaws (2.1.3.2.) and College of Law Bylaws (1.4.1.2), the Faculty Advisory Council (FAC) and the Provost agree to the following procedures for the selection of a new Dean. It is understood that the Provost, following these procedures, nominates a final candidate to the Law College President and Law College Board of Trustees for appointment.

1. The search shall be open to candidates currently appointed at Michigan State University and elsewhere. Nominations will be accepted from any source. Upon approval of these procedures, the Faculty Advisory Council shall prepare a job description announcement for posting - to be approved by the Provost. The vacancy shall be posted in *The Chronicle of Higher Education* and in other appropriate publications, as agreed by the Provost and the Committee to satisfy the standards of a national competitive search. The Committee, with agreement of the Provost, may post in additional locations.

2. A Search and Rating Committee (hereafter referred to as "the Committee") shall be established consisting of individuals selected by the following procedures in compliance with University and Law College bylaws. No person who permits his or her name to be entered as a candidate for the position of Dean shall continue to serve on the Committee. The Committee shall consist of at least ten and no more than thirteen voting members as follows:

- a. The Chairperson of the Faculty Advisory Council (FAC), or if he or she cannot or wishes not to serve, another member of that Council selected by the FAC.
- b. Six faculty members shall be selected by the Provost from a list of at least twelve nominees recommended by the Faculty Advisory Council. The group shall include individuals at different ranks and with different program affiliations. It may include FAC members and faculty holding administrative posts.
- c. One law student selected by the Provost from a slate of two recommended by the Student Bar Association.
- d. One alumni, donor, professional representative selected by the Acting Dean in consultation with the Law College Board President.
- e. One member from outside the college, but from within the University to be appointed by the Provost including inter alia an administrative office and colleges which actively interact with the College of Law e.g. the Graduate School and the Colleges of Agriculture and Natural Resources, Business, James Madison and Social Science.
- f. If the selection procedures described above do not result in the inclusion of both a woman and a minority representative who are members of the voting faculty of the Law College, the Provost will appoint, as necessary, up to two additional tenure system faculty committee members from the voting faculty of the Law College to be drawn from a slate of at least two per slot proposed by the FAC.
- g. A Provost's liaison who is not a committee member shall provide search support.

3. The Committee, in consultation with the Acting Dean and other members of the Dean's staff and the faculty, shall undertake aggressive efforts to identify potential candidates and to encourage their presence in the active candidate pool.
4. The Provost, in consultation with the Committee, shall select a chairperson from among its members or elsewhere. The chairperson will sign all correspondence as required by the Committee. The Committee also may choose to select a secretary from among its members. The Law College shall underwrite the full costs of the search and secure college staff support, maintain candidate folders, and make folders available to the Committee.
5. Formal action by the Committee requires a quorum. The quorum of the Committee shall consist of one-half plus one of the members including a quorum of the faculty complement of the Committee (also one-half plus one).
6. If any member of the Committee resigns or otherwise vacates his or her membership, he or she shall be replaced by the appointment by the Provost in consultation with the FAC or other relevant constituency (see point 2 above). If the person placed on the committee by item 2a above leaves the FAC or is no longer chairperson of such Council he/she may remain the Council's representative if the Council so desires, or the Council may appoint a replacement.
7. The Provost, in consultation with the FAC, shall develop a position description and define the qualification criteria for candidates.
8. The Committee will actively seek qualified candidates. Special efforts will be made to include women and minority candidates. The recruitment plan will be approved in advance by the Office of Inclusion and Intercultural Initiatives and the Office of the Provost. The Office of the Provost may also undertake special recruitment efforts for women and minority candidates. If the initial applicant pool does not include a reasonable proportion of women and minorities, additional efforts to identify such candidates will be undertaken before the screening process begins.
9. Initial screening will be based on the curriculum vitae; formal acknowledgment of candidacy may not be required by the Committee until letters of reference are requested. All involved in the search process - the Office of the Provost, the Committee, and all persons consulted - shall ensure confidentiality.
10. The Committee shall screen candidates to determine which individuals are best qualified. All candidates shall be assessed using the uniform criteria developed according to item 7. Assessments may be in qualitative as well as quantitative form. The Committee will provide assessments and ratings of all candidates to the Provost at appropriate times during the search process.
11. Each time the committee completes a set of candidate ratings, the Committee and Provost or designee shall meet to discuss the ratings. During the initial screening process, after in-depth consultation with the Committee, the Provost (or designee after consultation with the Provost) may decide to have a candidate or candidates remain on the "active candidate list" to be rated again in a subsequent screening. No such candidate may be so reconsidered more than once. Once the Provost

and the Committee agree on the list of candidates for on-campus interviews, no amendment to the list shall be permitted, except by agreement of two-thirds of the full Committee and the Provost. These consultations and actions shall be deemed confidential.

12. Recognizing that the Dean will have the rank of full professor with tenure in the Law College, the Committee shall consult informally with FAC concerning the academic qualifications of those candidates proposed to be invited for on-campus interviews. This consultation shall be deemed confidential.

13. The Committee will provide timely reports on the progress of the search to the FAC, the Faculty Assembled and the President and other members of the Law College Board. Such reports shall not include the names of candidates and will not be deemed confidential.

14. The Committee, in agreement with the Office of the Provost, will arrange and schedule the interviews for the final group of candidates. They shall include the Presidents of MSU and the Law College, the Provost, all key administrators involved with Law College programs and the Committee. In addition, this schedule will include, but not be limited to, meetings with the FAC, other Law College faculty, alumni/donor representatives, representatives of the staff and students, and other MSU deans. All finalists shall give a presentation to the Law College faculty. The committee and FAC shall encourage attendance. A small (3 to 4) member subcommittee of Law Board of Trustee members also shall interview on-campus finalists. Background information on each final candidate will be made available to faculty, Board of Trustee members and appropriate staff and students.

15. Any exception to these interview procedures, as described in item 14, will be made only when a candidate requests full confidentiality and over half the Committee, including over half of its faculty members, and the Provost agree to honor such a request and to agree to alternative procedures.

16. All faculty, staff, students, Board members and others who meet with the candidates shall be provided the opportunity to submit a written evaluation or otherwise communicate with the Committee. In addition, the tenure system Law College faculty shall vote on the acceptability of each candidate. The results of each vote, including numbers voting shall be reported. These assessments shall be advisory to the Committee and be considered in its ratings of final candidates (see point 17 below).

17. At the conclusion of the on-campus interviews, the Committee shall rate the final candidates as acceptable or unacceptable supported by a summary of strengths and weaknesses of each on-campus candidate and present their report at a meeting with the Provost. In advance of discussion with the Committee, the Provost shall review the list of on-campus candidates and the committee's report with the President of MSU, the President of the Law College and members of the Law College Board subcommittee (see point 14). If necessary, the Provost or designee shall meet with the Committee prior to entering into negotiations with the candidate(s) selected by the Provost.

18. All aspects of the search and rating procedure shall conform to the University's Affirmative

Action Hiring Procedure for Faculty and Academic Staff. The Associate Provost and Associate Vice President for Academic Human Resources and the Director of the Office of Inclusion and Intercultural Initiatives shall provide full assistance to the Committee in the search process.

Approved by:

\_\_\_\_\_  
Kim A. Wilcox  
Provost

\_\_\_\_\_  
Michael Lawrence  
Chair, Faculty Advisory Council

Date: \_\_\_\_\_

Date: \_\_\_\_\_

June 28, 2007