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FOREWORD

American University's policies and procedures in this Manual, governing the relationship entered into by each full-time member of the University faculty and the University at the time of initial appointment, describe the mutual obligations and expectations that are the basis for a continuing association.

These policies and procedures have been formulated by the faculty of the Washington College of Law and approved by the Dean of the Washington College of Law, the provost, the president, and the Board of Trustees of American University. They reflect the concerted efforts of the Dean of the Washington College of Law and faculty of the Washington College of Law, the provost, the president, and the Board of Trustees to affirm principles of University-faculty relationships that are in accord with those generally in effect in the academic world. The University does not discriminate on the basis of race, color, religion, national origin, sex, gender, gender identity and expression, age, disability, marital status, personal appearance, sexual orientation, family responsibilities, political affiliation, or veteran status, or any other legally protected status under federal or District of Columbia law. Seeking a diverse faculty and administration, the University strives to conform to all applicable equal employment opportunity and affirmative action laws and all federal and state nondiscrimination laws. American University is committed to providing and protecting all rights afforded to faculty members under federal and District of Columbia employment and employment-related laws.

The policies and procedures set forth in this Manual attest to the firm intention of the University to provide as favorable working conditions for its faculty as resources permit and an atmosphere in which faculty members may pursue their scholarly and professional activities and interests freely and without restraint. In return, the University expects faculty members to devote themselves with energy to the primary duties of teachers, scholars, and creators of knowledge and to challenge students intellectually and encourage them to acquire knowledge, understanding and vision.

The Washington College of Law Faculty Manual and rules, practices and procedures implementing it, including but not limited to provisions, practices and procedures enunciated by the American Bar Association or the Association of American Law Schools, supersede and preempt the American University Faculty Manual when inconsistent with it. Otherwise, the provisions of the American University Faculty Manual apply. In particular, faculty actions in the Washington College of Law are not subject to review by the University Committee on Faculty Actions. The Washington College of Law Library Faculty Manual applies to all law library faculty and is an Appendix to this Manual

GENERAL INFORMATION

1. A Brief History of American University

An Act of Congress approved on February 24, 1893, established American University in the District of Columbia. The act was primarily a result of the efforts of Methodist Bishop John Fletcher Hurst (1834-1903).

Bishop Hurst and his colleagues aspired to build an institution that would meld the strengths of German universities with those of the existing University system in America. As their plans developed during the early years, they began to conceive of American University as:

- a privately supported University financed principally by the membership of the churches, particularly the Methodist Episcopal Church, which had founded many colleges and universities in the early years of American history.
- an internationally minded institution where scholars from across the nation and throughout the world would gather to dedicate their combined efforts to advance and disseminate knowledge.
- a center of higher education and scholarship activities that, while independent of the government, would draw freely on the intellectual and scientific resources of the nation's capital to supplement and to extend its own capabilities;
- an institution that would contribute to the general cultural life and development of the capital in much the same manner that state-supported universities in other world capitals contributed to their communities.

After more than two decades devoted principally to securing financial support, the University was officially dedicated on May 15, 1914. The first instruction began on October 6, 1914, when twenty-eight students were enrolled (nineteen of them graduate students, nine of them special students not candidates for a degree). The First Annual Commencement, at which no degrees were awarded, was held on June 2, 1915. The Second Annual Commencement was held on June 2, 1916, and at that time the first degrees (one master's degree and two doctor's degrees) were awarded.

During the next 10 years, the University offered instruction at the graduate level only, in accordance with the original plan of the founders. In the Fall of 1925, the College of Liberal Arts (subsequently named the College of Arts and Sciences) was established. Since that date, the University has offered both undergraduate and graduate degrees and programs.

The present structure of the University began to emerge in the 1950s. Then the University reorganized three departments as schools: the School of Business Administration, (subsequently named the Robert P. and Arlene R. Kogod College of Business Administration (1955); the School of Government and Public Administration (1957); and the School of International Service (1958). From 1965 to 1977, the College of Continuing Education existed as a degree-granting college with

responsibility for on- and off-campus adult education programs. The Lucy Webb Hayes School of Nursing provided undergraduate study in nursing from 1965 until 1988. In 1972, the University incorporated the School of Government and Public Administration, the School of International Service, the Center for Technology and Administration, and the Center for the Administration of Justice (subsequently named the School of Justice) into the College of Public and International Affairs. In 1988, the University reorganized the College of Public and International Affairs to create two free-standing schools: the School of International Service and the School of Public Affairs, incorporating the School of Government and Public Administration and the School of Justice. The School of Communication and School of Education became independent from the College of Arts and Sciences in 1993 and 2019, respectively. From 2012 to 2021, the School of Professional & Extended Studies served life-long learners with employer-responsive professional degrees, certificates, and short-term courses. It also hosted national and international experiential education programs. In 1994, the national honor society Phi Beta Kappa granted American University a chapter, Zeta of Washington.

2. The Merger of the Washington College of Law with American University

The Washington College of Law became part of the University in 1949, having begun in 1896 as the first coeducational institution founded by women for the professional study of law. It has been coeducational since its founding.

In 1949, the Washington College of Law, which prior to that time had functioned as an ABA-approved, independent law school in the District of Columbia, became an integral part of American University pursuant to the terms of a Merger Agreement entered into on March 28, 1949. The Merger Agreement provides in pertinent part as follows:

American University agrees to operate as an integral part of the University a law school to be known as the Washington College of Law of American University, which name shall be maintained for so long as the University continues to operate a school or college of law.

...

American University agrees to use its best efforts to operate said law school in such fashion as shall entitle it to retain the present accreditation (sic) extended to the Washington College of Law by the Association of American Law Schools, and the American Bar Association or the then equivalent accrediting agencies.

...

American University agrees to promote faithfully the development of the Washington College of Law as a division of American University and to maintain the principles and traditions of the Washington College of Law.

...

...the merger of the Washington College of Law with American University...shall [be] approved by the Association of American Law Schools.

The Merger Agreement also incorporated the terms of admission of the Washington College of Law into the Association of American Law Schools, which had occurred in 1947. The by-laws of the Association impose somewhat more detailed and rigorous standards than those applied by the American Bar Association.

3. University and the United Methodist Church

Many sources have supported the development of the University, and The United Methodist Church has been particularly important. The financial support and participation of the church through its congregations and Board of Higher Education was particularly important during the early years of the University. Methodist funds made possible the founding of the School of International Service and the construction of the Kay Spiritual Life Center. On August 1, 1953, the U.S. Congress amended the University's charter, leading to closer association between the University and the General Board of Higher Education Ministry of the United Methodist Church, which makes an annual contribution to the University. The United Methodist Church also seeks to ensure the academic integrity and reputation of the University through its own regular accreditation visits by the University Senate of the church. The accreditation process includes a rigorous examination of the University's course offerings, instructional quality, ongoing relationship with the church, and many other key factors. While the United Methodist Church has been instrumental in forming and supporting the University, active management of the corporate affairs of the University is vested in the Board of Trustees, and the University is nonsectarian in its educational philosophy and academic programs.

The United Methodist Church, recognizing the integral place of religion in the human experience, seeks to provide optimum opportunity for religious development on its campuses, but it has always taken care to guarantee the values of academic freedom, which is in keeping with intellectual liberty being a cornerstone of Methodist thought from the time of the founding of Methodism by John Wesley. Thus, the faculty and the student body of American University represent a diversity of religious as well as academic and national backgrounds and experiences. The Board of Trustees has delegated to the faculty the basic responsibility for academic programs of the University.

4. Statement of Common Purpose

The Faculty Senate and the president recommended and the Board of Trustees approved the Statement of Common Purpose for American University, which can be found on the Office of the President website.

5. Academic Freedom for All Faculty at American University

American University endorses the Statement of Principles on Academic Freedom and Tenure issued jointly in 1940 by the American Association of University Professors (AAUP) and the Association of

American Colleges. These principles shall apply to all faculty at the Washington College of Law without regard to institutional status. The principles with respect to tenure set forth in that document are incorporated in the relevant entry in the *Provisions for Faculty Appointments in Tenure-Line Positions* in section 10 of this Manual.

With respect to academic freedom, the principles in effect at American University are based on the 1940 Statement:

- All faculty are entitled to full freedom in scholarship and in the publication of the results.
- All faculty are entitled to full freedom in the classroom in discussing their subject.
- All college and University faculty are members of a learned profession and of the community at large, and officers of an educational institution. When they speak or write as members of the community at large, they should be free from University 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 the University by their utterances. Hence they should strive at all times to be accurate, should respect the right of others to express their opinions, and should make every effort to indicate that they are not speaking for the University.

6. Governance at American University

The University is committed to following its procedures that promote shared governance that is transparent and accountable at every level of operation. Effective governance requires broad participation. Individual faculty can be their own best advocates through maintaining familiarity with this Manual and by staying current with issues in faculty governance. In general terms, the roles of the policy-making bodies may be described as follows.

a. The Faculty Senate

The composition and role of the Senate in University faculty matters, the composition and functions of the Senate's Committees on Faculty Actions and on Faculty Grievances, and the composition and function of the Faculty Hearing Committee are described in the American University Faculty Manual. One of its members is elected bi-annually by the faculty and library faculty of the Washington College of Law. Four members are elected by the University faculty at large, without regard to the unit to which they are attached, and one member is elected from the term faculty of any unit of the University on a University-wide basis. Members of the Washington College of Law faculty are eligible to stand for elections for these at large memberships. The remainder of the Senate's membership consists of the chairs of the Senate's five standing committees, whose membership is voluntary and open to members of the Washington College of Law faculty as well, except for the

Senate's Undergraduate Curriculum Committee, Graduate Curriculum Committee, and the Committee on Faculty Actions. The Senate's chair and the past chair serve on the Board of Trustees as non-voting members.

i. The University Committee on Faculty Grievances

The University Committee on Faculty Grievances is a standing committee of the Faculty Senate. The Committee is the primary instrument in University governance for faculty review of grievances arising from the procedures used by University teaching and academic units. This Committee represents the Faculty Senate in matters referred to it.

b. The Faculty of the Washington College of Law

On June 9, 1963, the Board of Trustees of American University accepted the Report of the president of the University that included the plan for the University's Faculty Organization, arising from the self-study in connection with the Middle States Evaluation. That plan, effective in the Fall of 1963, provides in pertinent part:

It shall be understood that the specific procedures within the professional schools shall at all times conform to the professional standards of the school in question.

The Washington College of Law of American University is a professional school and has as its mission the preparation of students for admission to the bar and for effective, ethical, and responsible participation as members of the legal profession (ABA Standards for Approval of Law Schools, Standard 301(a) (effective August 2014 (hereinafter "ABA Standards"). In virtually every state, a candidate must pass a qualifying examination before he or she is permitted to engage in the practice of law. In most of these states, receipt of a degree from a law school accredited by the American Bar Association is required as a prerequisite to sitting for the qualifying examination. The Washington College of Law must, therefore, be accredited by the American Bar Association and maintain itself in good standing by continuing to meet the applicable standards of that organization as set forth in the ABA Standards. The Washington College of Law must also meet the requirements for maintaining membership in the Association of American Law Schools.

Standard 201 of the ABA Standards (revised August 2014) states:

The dean and the faculty shall have the primary responsibility and authority for planning, implementing, and administering the program of legal education of the law school, including curriculum, methods of instruction and evaluation, admissions policies and procedures, and academic standards. The dean and faculty shall recommend the selection, retention, promotion, and tenure (or granting of security of position) of members of the faculty. The dean

and the faculty shall each have a significant role in determining educational policy. The policies of a University that are applicable to a law school shall be consistent with the Standards. The law school shall have separate policies where necessary to ensure compliance with the Standards.

In accordance with the Merger Agreement and these Standards, the faculty shall exercise substantial control, as set forth in this Manual and rules, practices, and procedures implementing it, over decanal and faculty appointments or changes in faculty status, such as reappointment, promotion, leaves of absence, and granting of tenure. The capacity to make the pertinent decisions is maintained under the following procedures:

- the faculty (acting in general meeting or by a representative portion determined by reasonable criteria), assembled in a meeting of which suitable notice has been given, makes initial recommendations with respect to faculty appointments or changes in faculty status for submission through intermediate approving authorities to the provost;
- the faculty, individually or collectively, is consulted with respect to appointment of the Dean of the Washington College of Law or acting dean. Persons recommended for appointment as Dean of the Washington College of Law or acting dean must have received the support of the majority of the faculty;
- only in exceptional circumstances can decanal or faculty appointments or changes in faculty status as defined above be made over the expressed opposition of a majority of the faculty (acting as a whole or by a representative portion determined by reasonable criteria); and
- the faculty's judgment concerning the Washington College of Law's opportunities and needs shall be given appropriate consideration as defined by ABA and AALS Standards.

The Board of Trustees has long recognized the important role of the faculty at American University. Reflecting that recognition, the Bylaws of the University state that: “Subject to the powers vested in the Board, the president and the provost, the faculty, including the faculty of the Washington College of Law, functioning through its duly constituted entities, shall have primary responsibility for: instruction and academic standards; curriculum and course approvals; recommendation of faculty appointments, promotions, and other faculty personnel concerns; recommendations for the instructional budget; and recommendation of policies affecting student affairs.”

c. Washington College of Law Faculty Committees

The Washington College of Law is primarily governed through its standing faculty committees. Unless otherwise noted below, the following committees of the Washington College of Law shall at all times consist of a majority of tenure-line faculty members and in addition, and with the consent of the chair after consultation with those members, of appropriate term faculty, library faculty, staff, and students of the Washington College of Law. These committees shall be chaired by a tenure-line faculty

member who does not hold a decanal title.

In addition to these standing faculty committees, the Dean of the Washington College of Law may appoint *ad hoc* committees for a definite period of time and for a specific purpose. *Ad hoc* committees shall at all times consist of tenure-line faculty members and in addition, and with the consent of the chair after consultation with those members, of appropriate term faculty, library faculty, staff, and students of the Washington College of Law. These committees ordinarily shall be chaired by a tenure-line faculty member who does not hold a decanal title.

In addition, the Dean of the Washington College of Law may constitute a committee as advisory to the dean and not a faculty committee.

Neither *ad hoc* committees nor dean advisory committees may address subject matter that is encompassed by any of the following standing committees.

i. The Committee on Rank and Tenure

The faculty of the Washington College of Law has delegated to the Washington College of Law Committee on Rank and Tenure responsibility for making recommendations directly to the Dean of the Washington College of Law regarding:

- the initial rank of and maximum credit of time toward tenure for all tenure-line faculty appointments to the rank of assistant professor and above;
- all tenure-line faculty reappointments, promotions, and appointments with tenure;
- approval or disapproval of sabbatical leaves, leaves without pay, and junior faculty research leaves; and
- the initial title, reappointment, and promotion of all term faculty except for Practitioners- in-Residence in the Clinical Program.

The Committee on Rank and Tenure will issue all policies, rules and procedures interpreting or implementing the Manual provisions regarding reappointment, promotion, and tenure at the Washington College of Law. The Committee on Rank and Tenure shall recommend to the faculty all revisions to the Washington College of Law Faculty Manual.

The Committee on Rank and Tenure is comprised of all tenured professors, including those on leave. A quorum of the Committee for the conduct of business consists of a majority of tenured professors not on leave. When assembled in a meeting, only professors present in person shall have the right to vote. The chair, however, may poll the Committee in connection with an initial appointment where a determination is a matter of urgency.

ii. The Committee on Appointments

The Committee on Appointments is composed of tenure-line faculty members only. This Committee is responsible for the recruiting and screening of prospective full-time faculty candidates and, after soliciting student advice about prospective candidates, recommending appointment actions to the faculty.

iii. The Committee on Standards and Evaluation

The Committee on Standards and Evaluation is responsible for reviewing and proposing the establishment or revision of the standards by which the Washington College of Law, its faculty, students, and staff operate and evaluate performance.

iv. The Committee on Admissions

Each year, the faculty delegates authority to admit the following year's incoming class to the Committee on Admissions. The Committee on Admissions is responsible for making recommendations regarding applicants to the J.D. program at the Washington College of Law, with final authority resting with the chair. The Office of Admissions and the Committee collaborate on matters pertaining to admissions and recruitment. The chair, on behalf of the Committee, reports to the faculty at the end of each annual admissions cycle on the composition of the incoming class.

v. The Committee on Curriculum

The Committee on Curriculum represents the Washington College of Law faculty in all matters relating to the approval or disapproval of course proposals, as well as the rationale for, scheduling, sequencing, subject matter, scope, and credit hours of all offerings in the Washington College of Law.

d. Deans and Directors of Programs at the Washington College of Law

Deans and directors of programs at the Washington College of Law shall be appointed by the Dean of the Washington College of Law, with no appointment to be made that is unacceptable to a majority of the members of the tenure-line and term faculty.

e. The Dean of the Washington College of Law

The provost appoints the Dean of the Washington College of Law with the advice of the tenure-line faculty of the Washington College of Law and the approval of the president and the Board of Trustees. The Dean of the Washington College of Law:

- is the academic leader of the Washington College of Law;
- is encouraged to teach regularly or otherwise participate in classroom or other

- education activities;
- provides opportunities for growth and development of the Washington College of Law faculty, students, and staff;
- reports to the provost and makes recommendations for faculty hiring, reappointment, promotion, and tenure; and
- is responsible to the provost for the administration of the Washington College of Law, consistent with the provisions of this Manual.

The Faculty Senate has adopted the principle of accountability of the principal University administrators by recommending that committees be employed to search for and recommend candidates for these positions and that evaluation committees review the work of these administrators at regular intervals. The Dean of the Washington College of Law is subject to these evaluation procedures.

A formal evaluation of the Dean of the Washington College of Law shall be conducted no less frequently than every five years. This evaluation shall include a survey of the tenure-line and term faculty within the Washington College of Law regarding the leadership and management of the dean.

The committee to evaluate the Dean of the Washington College of Law shall be composed of:

- three members of the tenured faculty of the Washington College of Law elected by the Washington College of Law Committee on Rank and Tenure;
- an alumnus/alumna of the Washington College of Law;
- a current law student who has completed at least two years at the Washington College of Law.

f. The Dean of Faculty

The Dean of Faculty is a deputy provost of the University and is authorized to act in all faculty personnel matters, except as noted in the American University Faculty Manual. All full-time faculty appointments are subject to the Dean of Faculty's approval. The Dean of Faculty will give due respect to, but is not bound by, the recommendations of the Committee on Rank and Tenure, the faculty, or the Dean of the Washington College of Law.

g. The Provost

The president appoints the provost with the advice of the University faculty and with the approval of the Board of Trustees. The provost continues in office at the pleasure of the president. The University bylaws specify that the provost:

- is the chief academic officer of the University, second in responsibility only to the president;

- reports to the president and has other powers and duties assigned by the president;
- is a member of the University faculty and of each teaching unit and academic unit and an ex officio member of each academic committee of the University;
- receives recommendations developed by the faculty and academic administrators for consideration and recommendation to the president;
- exercises the powers and duties of the president during the absence or incapacity of the president or in case of a vacancy in that office as determined by the Board of Trustees;
- may attend meetings of faculties, including the faculty of the Washington College of Law;
- calls a meeting of all persons holding faculty rank to discuss matters affecting the academic policies and educational offerings of the University; and
- has the authority and discretion to allocate and to approve appointments for all faculty lines.

h. The President

The president of the University is the chief executive officer of the University. The president is responsible for presenting information and recommendations to the Board of Trustees and executing the policies of the Board regarding operation, development, and promotion of the University. The president also represents the University to the public.

i. The Board of Trustees

The legal powers of the University are vested in a Board of Trustees that includes faculty representatives. The Board of Trustees is responsible for oversight of all University operations and gives final approval to the award of promotion and tenure.

The Board of Trustees of American University has approved designees for execution of contracts on behalf of the University. Only Board-approved designees are authorized to sign contracts that obligate the University; all other contracts may be ratified or adopted by the Board and the University at its sole discretion.

7. General Conditions of Faculty Appointments

There are two categories of full-time teaching faculty: tenure-line faculty and term faculty. Tenure has been a fundamental principle of American colleges and universities since the founding of the earliest institutions in the seventeenth century. In contemporary practice, tenure serves to:

- protect academic freedom;

- attract talented individuals to a secure life of scholarship, teaching, and service to others; and
- ensure that due process, as provided in the relevant policies of this Manual, is employed if a tenured faculty member is dismissed for cause.

The Washington College of Law strives to maximize the number and percentage of full-time faculty in tenure-line appointments.

TENURE-LINE FACULTY

8. Professional Obligations of Tenure-Line Faculty

a. Professional Obligations

Tenure-line faculty members must meet the criteria for teaching, scholarship, and service as described in *General Criteria for Evaluation of Faculty* in section 12 of this Manual. A faculty member's professional relationship with the Washington College of Law continues during periods in which classes are not in session in such areas as preparation of courses, participation in professional development, reading and grading of examinations and other written work, and field components of courses.

b. Teaching, Scholarship, and Service

Because individual faculty members play diverse roles, the Washington College of Law must establish and maintain procedures for determining an appropriate and equitable allocation of faculty obligations in teaching, scholarship, and service. The allocation of each full-time faculty member's professional obligations is predicated on the assumption that the faculty member is actively engaged in teaching, scholarship, and service and is based on the following parameters:

- The Washington College of Law recognizes the multiplicity of faculty roles and responsibilities and therefore subscribes to the practice of an instructional load based on an assessment of the balance among an individual faculty member's teaching, scholarship, and service.
- As part of their teaching responsibilities, tenure-line faculty members maintain a campus presence that reflects a commitment to connecting with students and to the Washington College of Law community.
- Full-time tenure-line faculty members generally teach four courses per academic year or, if teaching in the clinics, in addition to the client-based clinical course responsibilities, teach one non-clinical course, which is considered equivalent to one-quarter of their teaching responsibilities. In addition to any University-wide

course release system (such as the junior faculty teaching release program), the Dean of the Washington College of Law may establish a system of annual course releases for tenure-line faculty based on proposals for legal scholarship, pedagogical initiatives, or significant professional service that can result in release from one of the four courses. The actual course assignments per individual faculty member will vary by the intensity and productivity of scholarship and service. Final determination of all course loads and overloads rests with the Dean of the Washington College of Law.

When establishing a faculty member's workload assignment, the Dean of the Washington College of Law may consider, but is not limited to, the following: evidence of an active scholarly agenda and productivity; the scope and intensity of course preparation; supervision of student scholarship, externships, and dissertations; credit hours taught; size of classes; contact hours taught; amount of student advising; and significant contributions to service (such as major committee assignments) at the Washington College of Law, University, and beyond. Such external service should be clearly related to the teaching and scholarly interests of the faculty member and/or advance the academic reputation of the Washington College of Law or the University. The Dean of the Washington College of Law must assure that parity of faculty assignments is achieved.

9. Academic Ranks and Qualifications

Full-time tenure-line ranks are: Assistant Professor, Associate Professor, Professor, and Distinguished Professor.

All appointments to tenure-line faculty ranks within the Washington College of Law are on the recommendation of the faculty of the Washington College of Law (with the concurrence of the Dean of the Washington College of Law) and constitute appointments to the faculty of the Washington College of Law. Appointments at any rank may be made jointly to two or more faculties of the University, with the same rank in each. Two or more faculties of the University (with the concurrence of the appropriate deans) must act jointly to recommend individuals for joint appointments at any rank to more than one academic unit. An individual with a joint appointment must have the same rank within each academic unit. In academic units that are organized by teaching units, all faculty appointments are specific to a teaching unit within the academic unit.

In addition to fulfilling the general criteria for the evaluation of faculty members described in the following section, faculty must meet specific requirements for each rank to be appointed to or promoted to that rank. A statement of these qualifications follows.

a. Full-Time Faculty Ranks

i. Assistant Professor

An appointee to the rank of Assistant Professor shall hold the juris doctor or equivalent professional or academic degree and shall have demonstrated:

- the potential to achieve excellence in law teaching and scholarship;
- the commitment to participate in internal and external service and to mentor and advise students; and
- the promise of future professional growth.

ii. Associate Professor

An appointee to the rank of Associate Professor shall hold the juris doctor or equivalent professional or academic degree and shall have demonstrated:

- high-quality teaching and academic engagement with students in and outside the classroom;
- significant scholarly accomplishment;
- the potential for a career of sustained scholarly distinction; and
- professional recognition and growth.

No initial appointment or promotion to this rank may be made for a person having fewer than three years of prior service at the rank of Assistant Professor or its equivalent in an accredited law school unless the background and experience of the person demonstrate outstanding capacity for teaching and scholarship through distinction in the legal profession, research, and writing, as well as other areas.

iii. Professor

An appointee to the rank of Professor shall hold the juris doctor or equivalent professional or academic degree and shall have demonstrated:

- excellent teaching and continuing academic engagement with students in and outside the classroom;
- excellent scholarship that makes a significant contribution to scholarship in law, the legal profession or society;
- effective internal and external service; and
- evidence of the potential to sustain excellence in all of these areas.

No initial appointment or promotion to this rank may be made for a person with fewer than three years prior full-time faculty service at the rank of Associate Professor or its equivalent in an accredited law school unless the background and experience of such person demonstrate truly outstanding capacity for teaching and scholarship through distinction in their field, research, and writing.

iv. Distinguished Professor**i. General Description**

The rank of distinguished professor/librarian is awarded on a highly selective basis; it is not a routine promotion for faculty who have already achieved the rank of Professor/Librarian. Faculty must hold the rank of professor/ librarian to be nominated for distinguished professor/librarian.

The rank of distinguished professor/librarian honors eminent American University faculty whose extraordinary and exceptional scholarship has earned national and international renown. The candidate is expected to have shaped their field or a significant sub-field through path-breaking original scholarship. The impact of research and creative works that meet this standard often extends across fields and sometimes includes creation of a new sub-field within a discipline or at the juncture of disciplines.

ii. Procedures for Nomination and Review

Review procedures associated with this rank are different from those specified in Section 13 of this Manual. The review procedures for the rank of distinguished professor are described in this section.

To be considered for this rank, faculty must be nominated by at least two of the following individuals: deans of the College of Arts and Sciences, the Kogod School of Business, the School of Communication, the School of Education, the School of International Service, the School of Public Affairs, and the Washington College of Law; the university librarian; or the vice provost for research. Faculty may not self-nominate. Nominations must include a current CV and supporting discussion and documentation of the candidate's qualifications for the this highly selective rank. Nominations may be made from the beginning of each academic year through March 1. Nominations should be sent to the dean of faculty who will then convene the Review Committee on Distinguished Professor/Librarians Appointments.

Based on an initial review of the nomination materials, the committee may decline further review or move the nomination to full review file forward. The committee may also request additional relevant information at any point in the review process.

The committee customarily forwards its final recommendation to the provost no later than October 15 of the academic year following the nomination. If approved by the provost, the recommendation requires final approval by the Board of Trustees for the award of the rank. If the provost has a conflict of interest with respect to an individual recommended by the committee for distinguished professor rank, the dean of faculty will review the committee's recommendation and decide whether to advance it to the Board of Trustees. If the Board of Trustees approves the promotion, the nominee will be notified of the decision by the Provost's Office. In cases in which the candidate is not supported for promotion to distinguished professor, the dean of faculty will notify the nominating deans of that decision.

The review process for distinguished professor is strictly confidential. The records of the nomination review process are confidential with access only to the committee and the relevant decision-makers. The nominee does not have access to the records. Records related to these cases are maintained confidentially under the direction of the provost's office.

Notwithstanding any other policies in this Faculty Manual or elsewhere, recommendations and decisions made under this distinguished professor review process are not grievable or appealable.

iii. Appointment of Faculty when Hired at the Rank of Distinguished Professor

Faculty may also be appointed to the rank of Distinguished Professor. Such a nomination requires the approval of the Committee on Rank and Tenure, the Dean of the Washington College of Law, and provost. The committee's review will necessarily be expedited to fit the appointment schedule of the candidate. As in all faculty actions, the committee's recommendation to the provost is advisory.

Only a small number of Distinguished Professorships are conferred at American University, as the provost, with the approval of the president and the Board of Trustees, designates. Faculty members appointed at that rank will have met all the criteria for the rank of Professor in their discipline and will have demonstrated excellence in teaching with a clearly demonstrated understanding of his or her subject area and will have achieved sustained national and international recognition in his or her academic field or area of performance, as well as a sustained record of professional and scholarly achievement and a record of service to the wider community that the University serves. The faculty member will have achieved distinction in scholarship, research, or professional performance by means of such evidence as:

- outstanding publications or other public demonstrations of professional or academic excellence that provide significantly new knowledge in the candidate's field of specialization, new and useful techniques for the constructive utilization of existing knowledge in that field, or a revision or reinterpretation of data in a given field that engenders new perspectives for thought and action;
- recognition by professional societies or established critics in the faculty member's field;
- recognition based on professional merit by groups other than professional societies, such as foundations, government bodies or community groups; and
- a record of significant research funded by outside agencies as a result of recognition in the faculty member's field of specialization and attested to by reputable professionals in the field.

v. *The Director of the Law Library*

The position of Director of the Law Library is a law faculty appointment and the Director shall have Law Library Tenure. In addition, the Director may apply for the academic ranks specified in Section 9 of this Manual if he or she meets the criteria applicable to the appropriate rank.

vi. Designation of Special Titles Other than Regular Tenure-Line Faculty Ranks

There are circumstances under which a faculty member may receive a special title. For example, an endowment fund may allow for the naming of a chair or a professorship for an indefinite period or a fixed term. These titles are conferred by The Washington College of Law's Committee on Rank and Tenure and the Dean of the Washington College of Law. The provost makes the final decision to award such a designation to a faculty member.

vii. Administrative Officers and Staff Members with Faculty Rank

The assignment to an administrative or professional staff position within the Washington College of Law or University and the conferral of tenure-line faculty rank represent separate and distinct actions. A member of the tenure-line faculty appointed to an administrative or staff position must understand clearly the dual nature of the relationship with the University. An individual holding both an administrative or staff position and a tenure-line faculty rank is subject to the rules and regulations for both appointments. Staff policies will govern administrative and staff actions and faculty policies will govern faculty actions.

When the Washington College of Law or University appoints tenure-line members of the faculty to administrative or staff positions, they will retain faculty status and be entitled to consideration for promotion in rank or an appointment with tenure on the same basis as other tenure-line faculty members, unless it is agreed in writing between the faculty member and the Dean of the Washington College of Law (acting in consultation with the Committee on Rank and Tenure) at the time of the appointment to the administrative or staff position that there be an extension of time for compliance with the requirements for reappointment, promotion, or tenure. Eligibility for reappointment, promotion in rank, or appointment with tenure is subject to:

- continued participation in the activities of the Washington College of Law; and
- teaching at least one course per year.

Administrative and staff appointments are made annually and may be made co-terminously with a faculty appointment.

Ordinarily, administrators with faculty rank are expected to teach at least a one-half of a full teaching load.

b. Emeriti and Emeritae Faculty

Emeritus or emerita status is generally conferred on retiring tenured faculty members after active service of approximately eight years or more. Usually the Dean of the Washington College of Law initiates the process with a brief letter of commendation to the Office of the Provost. Faculty who are designated as emeriti or emeritae are entitled to reasonable use of the facilities of the University consistent with the needs of the institution and shall be included in appropriate lists of the faculty of the Washington College of Law. Faculty emeriti and emeritae who teach for the Washington College of Law after retirement shall be accorded the title of Emeritus or Emerita in Residence. Emeriti and emeritae faculty retain their right to speak in faculty meetings but do not have voting rights unless they are serving as Emeriti/Emeritae-in-Residence. They may serve on committees and perform such other occasional services as are in keeping with their desires and capabilities and with the needs of the Washington College of Law.

c. Affiliate Faculty

An affiliate faculty appointment recognizes a formal arrangement between a faculty member and a teaching unit outside the faculty member's primary appointment. Affiliate faculty appointments are appropriate when there is mutual agreement about the potential for future contributions to the unit's mission. Ordinarily, only tenured faculty members are eligible for such an appointment. The University encourages individual faculty members to initiate informal discussions regarding a possible cross-unit affiliation with the heads of both the primary and proposed affiliation units.

An affiliate faculty appointment must include a written affiliation agreement that describes the responsibilities and benefits of the arrangement as well as its resource implications, if any. The agreement must specify the extent to which the faculty member will participate in the governance of the affiliate academic unit. The head of the faculty member's primary teaching unit, its Committee on Rank and Tenure, and its academic unit dean as well as the proposed affiliate unit's head, the Committee on Rank and Tenure, and the Dean of the Washington College of Law must approve an affiliate faculty appointment and the related affiliation agreement. The Dean of Faculty has final approval of an affiliate faculty appointment.

Review criteria for affiliate faculty appointments include the faculty member's past and/or envisaged future contributions to scholarship, teaching, and/or service in the unit where affiliation is sought. The term of an affiliate appointment may vary from one to three years and may be renewed. An affiliate faculty member will retain the academic rank held in the faculty member's primary field and may, for example, use a title such as —associate professor of history and affiliate associate professor of government.

10. Provisions for Faculty Appointments in Tenure-Line Positions

The Washington College of Law is deeply committed to a diverse faculty. The process of tenure-line appointments must be consistent with the University's commitment to affirmative action, equal opportunity, and nondiscrimination. The Washington College of Law must demonstrate that it has vigorously taken steps to fulfill those commitments.

All tenure-line appointments will be made by majority vote of the Washington College of Law tenure-line faculty following a recommendation of the Committee on Appointments. Only tenure-line faculty members are eligible to vote on such recommendations.

a. Earning Tenure

Tenure is not acquired merely by successive reappointments over a specified period of time. The granting of tenure is a positive judgment based on the standards and process set forth in sections 9, 10 and 11 of this Manual. For a positive tenure decision, a faculty member must have demonstrated high quality in both teaching and scholarship. There must also be evidence of the ability to continue significant growth in these areas and continue to make positive contributions to the community including institutional service to the Washington College of Law, University, and the legal community.

i. Minimum Rank

In general, to be eligible for an appointment with tenure, a faculty member must have attained the rank of assistant professor or higher. Normally, the requirements for a positive tenure decision would include meeting the qualifications for the rank of Associate Professor or higher.

ii. Years of Service: Full-Time Faculty

In general, to be eligible for tenure, a full-time faculty member must have six years of full-time teaching service at the rank of assistant professor or above, at least four of which must be completed at the Washington College of Law, or be consistent with subsection d., *infra*, of this article of the Manual. A faculty member with a new appointment who has been previously tenured or who was eligible to be considered for tenure at another institution may, in exceptional cases, be appointed with tenure after following appropriate University procedures as described in this section.

b. Appointments of Faculty with Tenure

If the Washington College of Law completes its full search process and seeks to recommend appointing a faculty member with tenure, it must undertake additional due diligence to ensure that the candidate will meet the standards expected of a tenured faculty member in terms of teaching, scholarship, and service at the Washington College of Law and be an effective colleague in assisting the overall development of the Washington College of Law. Hiring at this level demands more

than a demonstration of achievements commensurate with the rank; it also requires evidence that the individual possesses qualities that positively distinguish a career and that hold additional promise for the Washington College of Law

c. Tenure-Line Review Process

It is the responsibility of the Dean of the Washington College of Law to prepare the recommendation for initial appointment or File for Action for each faculty member and to forward them to the office of the Dean of Faculty, together with the Dean of the Washington College of Law's recommendations and that of the Committee on Rank and Tenure. The Dean of the Washington College of Law is also responsible for providing to the chair of the Committee on Rank and Tenure a list of all faculty concerning whom personnel actions are to be considered by the Committee on Rank and Tenure for the following academic year. Such actions involve reappointment, promotion, leaves of absence, and granting of tenure.

Faculty members for whom personnel actions are under consideration must then be notified to submit for review appropriate documentation regarding their work, activities, and honors. The Committee on Rank and Tenure may act through subcommittees of not fewer than three tenured faculty members in gathering additional information, reviewing the entire file, and making a recommendation to the Committee on Rank and Tenure.

During each academic year, the Committee on Rank and Tenure holds a series of meetings to consider each faculty personnel action.

Faculty members whose files are considered may appear in person before the Committee on Rank and Tenure either at their own or at the Committee's request. At the conclusion of each case, a vote is taken, and the position of a majority of the quorum present becomes the formal action of the Committee on Rank and Tenure. The procedures of the Committee on Rank and Tenure do not permit voting by proxy.

If it appears that adverse action is to be recommended, that fact must be made known promptly in writing to the faculty member, but not later than the end of the semester. The faculty member under consideration may waive this deadline, but in no event can an adverse written communication from the Committee on Rank and Tenure be delayed beyond March 1. The Dean of the Washington College of Law receives from the chair of the Committee on Rank and Tenure a report explaining its recommendation for each individual considered. The Dean of the Washington College of Law shall conduct an independent review of the report and file. If the Dean of the Washington College of Law disagrees with any recommendation of the Committee on Rank and Tenure, he or she shall make that fact known in writing to the faculty member under consideration and the chair of the Committee on Rank and Tenure, together with his or her reasons, prior to forwarding the individual Personnel Action Form, report and recommendation to the Dean of Academic Faculty. The faculty member under consideration shall have seven calendar days to respond, and have the response added to the file.

d. Pre-Tenure Credit for Prior Service

Qualified candidates may seek to take up to two years of prior service toward tenure at American University. The Washington College of Law may also consider recommending appointments with up to four years of prior service under exceptional circumstances. Credit for prior service must be approved by the Committee on Rank and Tenure, the Dean of the Washington College of Law, and the Dean of Faculty. This service credit may be based on experience at another institution, ordinarily one of higher education. Faculty whom the Washington College of Law converts from term to tenure-line positions are also eligible for service credit.

Faculty who negotiate a service credit in their initial contract may waive the entire credit or reduce the amount of the credit within one month after receiving their first annual review. Changes in credits must be in writing and filed with the Dean of Faculty. This waiver of prior credit has the effect of extending the pre-tenure period for the faculty member who originally claimed credit for prior service at the time of appointment to the Washington College of Law faculty. Thereafter, pre-tenure faculty may not reclaim or waive additional time credited toward tenure except in the most unusual circumstances. Faculty who waive all credit will revert to the standard six-year review schedule.

e. Faculty Seeking an Early Tenure Review

Faculty with an exceptional record may apply for tenure prior to completing the entire sixth-year review period. In such instances, the faculty member must have the support of the Committee on Rank and Tenure and the Dean of the Washington College of Law. Customarily, such a request would not be made prior to the completion of the third-year pre-tenure review. Faculty who file for an early tenure review go through the standard review described in this Manual. As in other instances, the tenure decision is final, and the candidate cannot reapply for tenure.

f. Contractual Terms of Service

i. Initial Appointment

Appointments prior to the granting of tenure are usually made for three years. However, one-year appointments may be made when recommended by the Committee on Appointments and by the Committee on Rank and Tenure and when such recommendation is supported by the Dean of the Washington College of Law. The Dean of the Washington College of Law must notify faculty on an initial three-year contract by the end of the first semester of the third academic year whether he or she will recommend renewal for another year.

An appointment to the full-time faculty is a contractual obligation to the University that is effective

throughout the academic year. The obligations of full-time service are defined in section 8 of this Manual. This obligation calls for nine months of full-time service to the University that shall include, specifically, the faculty member's active presence while the Washington College of Law is in session, from the start of orientation prior to the beginning of classes in the fall semester through Commencement Day in the spring semester.

Tenure-line faculty are paid in twelve monthly installments, from September through August.

ii. Reappointment

Reappointments are contingent upon the satisfaction of the general criteria for the evaluation of faculty members and the specific criteria for particular ranks outlined in section 12 of this Manual. Only activities and achievements since the original appointment shall be considered in connection with a reappointment decision.

g. Schedule of Notice for Appointment or Termination

The Washington College of Law will state the precise terms and conditions of all appointments and reappointments in writing for each appointee. The letter of appointment will include a specific reference to this Manual.

Appointments to the tenure-line faculty for the first six years of pre-tenure service are generally for a specified term. This means that these appointments naturally expire on the end date of the term, unless the appointments are terminated earlier as provided by this Manual, without further University action. Nevertheless, it is the intention of the University that all tenure-line faculty members be advised by letter as early as possible in the academic year of service in which their appointment expires whether they will be reappointed, and in cases of reappointment, the terms and conditions thereof.

Only the Dean of Faculty may reappoint tenure-line faculty for a succeeding term, and does so in writing. Failure to receive notice does not imply reappointment or the award of tenure. If a faculty member has not received notice of a renewal or grant of tenure, it is the faculty member's responsibility to inquire of the Dean of Faculty, through the chair of the Committee on Rank and Tenure, who will respond with a status report.

h. Resignations

A faculty member who wishes to resign from the University while under contract must submit a written request to the Dean of the Washington College of Law, including any conditions relating to the resignation. The request shall then be tendered to the Dean of Faculty, who, after consultation with the faculty member and the Dean of the Washington College of Law, will notify the faculty member whether

the resignation is accepted.

i. Death While on Active Service

Upon the death of a full-time faculty member with ten years or more of continuous full-time service to the University (including time on approved leave, including disability leave), the University will pay a lump sum equal to twenty percent of the faculty member's base annual salary to the representatives of the decedent's estate.

11. Review of Washington College of Law Faculty Personnel Decisions

Formal authority for making tenure-line appointments rests with the provost, on advice and consent of the Washington College of Law faculty after consultation with the Dean of the Washington College of Law. Initial appointments with tenure are subject to the approval of the Board of Trustees.

Conflicts of interest involving the evaluation of individual faculty members for appointment, reappointment, tenure, promotion, or termination must be avoided wherever and whenever they might arise. The provost, the Dean of Faculty, the Dean of the Washington College of Law, members of the Committee on Rank and Tenure, and all others who participate in these processes are expected to acknowledge such conflicts of interest openly and abstain from participation whenever such conflicts arise.

The provost independently reviews the faculty personnel recommendations for appointment, reappointment, promotion, and tenure made by the Dean of the Washington College of Law and, following this review, submits his or her recommendations for promotion and tenure to the president and the Board of Trustees for approval. In conducting this review, the provost ordinarily will concur with such recommendations, withholding approval only in exceptional circumstances.

The provost also reviews the recommendations of the Committee on Rank and Tenure and of the Dean of the Washington College of Law for sabbatical leaves and for leaves without pay.

No formal commitment or offer of a contract may be made until the Dean of Faculty has approved and authorized the sending of a letter offer.

Faculty personnel actions originating in the Washington College of Law are not subject to review by the University Committee on Faculty Actions.

12. General Criteria for Evaluation of Faculty

The evaluation of a member of the faculty at the time of initial appointment, at each renewal, and on the

occasion of promotion in rank or appointment with tenure is based upon the faculty member's actual and potential contributions to legal scholarship, law teaching, the legal profession and the Washington College of Law and University communities.

An individual faculty member is responsible for documentary support for a faculty action and for updating the faculty member's File for Action, and all the appropriate documents the faculty member has supplied will accompany the File for Action as it is sent through the personnel process.

The criteria set forth in this section are intended to guide those conducting and reviewing the evaluation of all tenure-line faculty members. The purpose of these criteria is to focus attention on the overall contribution and performance of the faculty member without assigning equal weight to the separate criteria.

In making its recommendations to the Dean of the Washington College of Law regarding appointment, reappointment, promotion, and granting of tenure, the Committee on Rank and Tenure shall apply the applicable criteria set out in sections 8 and 9 of this Manual.

a. Educational and Professional Background

A person recommended for appointment to the faculty shall have the educational background, academic experience, recognized earned degrees and the professional and employment experience appropriate to the position proposed. In the case of any faculty member teaching in a clinic, membership in good standing of a state bar and eligibility to acquire the right to practice before the bar of the jurisdiction in which the faculty member is supervising students is an additional prerequisite for appointment, reappointment, tenure, and retention of tenure.

b. Effective Teaching

Effective teaching is a primary consideration in the selection, reappointment, promotion, and granting of tenure of faculty members of the Washington College of Law. Effective teaching includes intensive preparation for class; thoughtful organization of individual class sessions and overall course content; articulate presentation of subject matter; ability to direct effectively a class and to devise methods of determining a student's progress and achievement; breadth and depth of relevant knowledge; provision of a classroom atmosphere stimulating students' learning and intellectual growth and involving students in the learning process; student counseling; and a frequent and active presence in the Washington College of Law— all with due concern for student motivation and a respect for their intellectual needs. In the case of clinical faculty, additional factors to be considered beyond classroom teaching are effectiveness in program design, student supervision, and case rounds and interaction with and support of students in their clinical fieldwork. In addition to the conduct of classes

and other planned faculty-student interactions, the supervision of dissertations, writing projects, and independent studies shall be considered a component of effective teaching.

Although student evaluations of teaching effectiveness, including the statistical information derived from them, are used in evaluation and review of all faculty members, such evaluations are not dispositive in determining teaching effectiveness and should be used in conjunction with peer reviews and in-class visits.

c. Scholarship and Professional Development

Faculty members' thorough understanding of and significant contribution to their fields are essential to the mission of the Washington College of Law, the development of the legal profession and the advancement of knowledge. A broad scholarly knowledge of one's field and the production of significant scholarship are essential to effective teaching and the mission of the University. The University is committed to support and assist in the development of scholarship, research, and effective teaching.

Evidence of scholarship and professional development includes the publication of significant scholarly contributions, development and publication of teaching methods and materials, public lectures, leadership in professional organizations, and other professional activity that demonstrates concern with the advancement of the faculty member's discipline or interdisciplinary work.

Scholarship is defined as consisting of original contributions to the author's field of knowledge such as would warrant recognition among scholars and educators in the same field. In applying this standard to legal research, legal scholars can find many outlets to pursue their areas of scholarship and research, ranging from the highly abstract to eminently practical contributions and accomplishing a wide range of purposes. Scholarship, in whatever form or length, should reflect those qualities of mind that justify the recognition of others. Scholarship may be represented in an effective analysis of empirical data that breaks new ground in determining how the law functions, or in a carefully conceived doctrinal or theoretical construction that is offered as a perspective on existing material. Whether it is a new way of perceiving established doctrine or a proposal for new directions, the scope of scholarly work should be sufficiently ambitious to justify the substantial commitment of time invested in it. In sum, scholarship is informed, reflective, and deeply analytical. By way of a contrasting example, a book that simply collects the views of others, an article that merely reports the holding of a number of judicial opinions, or an analysis of a current legal issue that is content to summarize the contentions already made by others is not sufficient evidence of scholarship. Only in the most exceptional circumstances would a brief supporting a litigant's position be able to meet the scholarship requirement. Thus, not all written work that appears in the traditional forms necessarily meet the standards of quality for legal scholarship. Its quality is not measurable in terms of pages or even numbers of pieces, but instead should be sufficient in relation to the time spent at the Washington College of Law to demonstrate a devotion to intellectual inquiry and scholarly productivity throughout the person's professional life. Scholarly publications written prior to coming to the Washington College of Law may be relevant insofar as they indicate that these qualities are not recently acquired.

d. Institutional and Professional Service

Faculty members' contributions to the governance and operation of the Washington College of Law or the University may include participation in committees, student advising and mentoring, and other activities that contribute to the Washington College of Law and University communities. Professional activities outside the Washington College of Law should include using one's professional skills in service to the community and the profession. Such service may be manifested through participation in activities of a bar association or other professional, governmental, or community organizations relevant to the legal system. What is important in measuring such activities is the quality of service, the depth of involvement, and the extent to which the activities enrich the faculty member's teaching and scholarship. Despite the long-term value and importance of these activities, full-time membership on a faculty involves a commitment to teaching and scholarship as principal activities.

e. Professional Conduct and Ethics

The American Bar Association Model Rules of Professional Conduct and applicable local Rules are incorporated herein. Any inconsistency between such Rules and the provisions of this Manual shall be resolved in favor of the Rules.

In addition to the duties of teaching and scholarship, the responsibility of a full-time faculty member includes attendance and participation in faculty meetings and committee work. The Washington College of Law expects faculty members to exhibit civility, collegiality, and respect for different points of view. Compliance with faculty determinations regarding the timing of examinations and the publication of students' grades is expected of all faculty.

Full-time faculty members not on leave are expected to devote substantially all of their time to the Washington College of Law during the fall and spring semesters. Outside of the fall and spring semesters, a faculty member's obligation to the Washington College of Law continues for the preparation of courses, participation in professional development, reading and grading of examinations and other written work, and supervising or making arrangements for the coverage of clinical matters.

Faculty members who are teaching full time at the University may not, during the term of their appointment, hold a tenure-line or full-time position on the faculty of another higher education institution. Teaching at another law school or University at any time requires the advance written approval of the Dean of the Washington College of Law and the provost.

13. Principles, Structure and Process for Faculty Actions

The Committee on Rank and Tenure, in conducting its reviews of all appointment, reappointment, promotion, and tenure decisions, must provide a thorough and objective analysis of a candidate's

strengths and weaknesses, and, when applicable, summarize the reasoning of both majority and minority positions.

Faculty members participating in faculty action recommendations and decisions shall respect the confidentiality of the process and shall not reveal votes, names of reviewers, or the content of discussions.

The Office of Human Resources maintains the official personnel records of all faculty. Faculty members are entitled to inspect those records and correct factual errors.

Upon completion of a faculty action, the file will be retained under the direction of the provost, provided that a file may be accessed as a matter of right by a faculty member appealing the decision taken.

Candidates for a faculty action may add information to their file at any stage in the process, provided that no confidential information with regard to reviewers or votes is disclosed to the candidate. Candidates may have one week to read the file and respond to the following items in it: all external reviews, redacted as to name, affiliation, and prior association with the candidate; Committee recommendations, redacted as to vote count; and the Dean of the Washington College of Law's recommendation to the provost.

Each file for action shall contain a minimum of five external reviews of a candidate's scholarship solicited by the chair of the candidate's Rank and Tenure subcommittee. The external reviewers should be nationally or internationally respected individuals whose area of expertise qualifies them to speak with authority about the candidate and whose professional and personal relationship with the candidate is such that the external reviewers can provide an objective review. Customarily, the majority of these letters must be from faculty members, typically full professors.

The Dean of the Washington College of Law shall review each recommendation of the Committee on Rank and Tenure for conformance with this Manual and the committee's rules, and write a recommendation based on that review. The Dean of the Washington College of Law may, when appropriate, request in writing clarifying information from the Committee on Rank and Tenure.

The Dean of Faculty shall, before submission of the file to the provost, determine whether the file is complete. The provost shall review the file. If needed to determine whether the criteria for promotion and/or tenure have been met, the provost may request clarifying information about the file from the Dean of the Washington College of Law and the Committee on Rank and Tenure. The provost shall inform the president of a decision to recommend promotion and tenure of a candidate to the Board of Trustees and, upon the recommendation of the provost, the candidate for promotion and tenure may be awarded such by the Board.

A candidate is awarded promotion and tenure only when the action is approved by the Board of Trustees, effective when the Board resolution states.

Nominations for promotion to the highly selective rank of Distinguished Professor are governed by section 9.iv.2 of this *Manual*.

TERM FACULTY

14. Academic Titles and Professional Obligations for Term Faculty

Ordinarily, persons appointed as term faculty members shall have as their primary responsibility full-time teaching. Full-time term faculty titles are Professor of Practice; Assistant Professor of Legal Rhetoric; Associate Professor of Legal Rhetoric; Professor of Legal Rhetoric; and Practitioner-in-Residence in the Clinical Program. Research Professors are also term faculty.

This Section does not affect the status or reappointment of faculty with other titles who were appointed before September 1, 2018, nor does it prevent future development of the sections pertaining to term faculty.

The rules and procedures contained in the document titled, “Long-Term Contracts – Elements of Implementation,” as adopted by the Washington College of Law Faculty on May 28, 2008, are hereby incorporated by reference in this Manual, except the following provision is rescinded: “The number of persons at the Washington College of Law holding long-term contract positions shall not exceed ten percent (10%) of the number of tenure-track and tenured faculty in the law school.”

a. Professors of Practice

Professors of Practice carry a full teaching load and may be associated with programs in the Washington College of Law. Professors of Practice are expected to contribute generally to the intellectual life of the Washington College of Law and the program with which they are associated through, for example, teaching, curriculum development, scholarship, institutional service, and professional service.

Professors of Practice may attend faculty meetings and may vote on all matters other than tenure- line and visitor hiring, retention, promotion, and requirements thereof. Professors of Practice may vote in an election for members of a dean search committee, but they may not vote on the faculty recommendation or communication to the provost at the conclusion of a dean search.

Professors of Practice may be members of standing faculty committees other than the Committee on Rank and Tenure and the Committee on Appointments with the consent of the chair after consultation with the tenure-line faculty members appointed to the committee. They may also serve on *ad hoc* committees.

b. Legal Rhetoric Faculty

Assistant Professors, Associate Professors, and Professors of Legal Rhetoric teach Legal Rhetoric and assist in the administration of the Legal Rhetoric Program. Legal Rhetoric faculty are expected to contribute generally to the intellectual life of the Washington College of Law and the Legal Rhetoric Program through, for example, teaching, curriculum development, scholarship, institutional service, and professional service.

Legal Rhetoric faculty may attend faculty meetings and may vote on all matters other than tenure-line and visitor hiring, retention, promotion, and requirements thereof. Legal Rhetoric faculty may vote in an election for members of a dean search committee, but they may not vote on the faculty recommendation or communication to the provost at the conclusion of a dean search.

Legal Rhetoric faculty may be members of standing faculty committees other than the Committee on Rank and Tenure and the Committee on Appointments with the consent of the chair after consultation with the tenure-line faculty members appointed to the committee. They may also serve on *ad hoc* committees.

c. Practitioners-in-Residence in the Clinical Program

Practitioners-in-Residence in the Clinical Program are experienced lawyers interested in becoming clinical law teachers. Practitioners-in-Residence in the Clinical Program teach full-time in one of the law school's clinics. Only in exceptional cases do Practitioners-in-Residence in the Clinical Program stay for more than three years at the Washington College of Law.

d. Research Professor

A person engaged primarily in research or professional activities relevant to the work of the Washington College of Law may be appointed on a part-time or full-time basis as a Research Professor, provided that he or she possesses the educational and research qualifications appropriate to that title and the research is conducted at the Washington College of Law. Such person receives no compensation from the Washington College of Law, but may have compensation entirely funded by sources outside the University. Rare exceptions will require the written approval of the Dean of the Washington College of Law and the Committee on Rank and Tenure.

A Research Professor shall receive a letter of appointment from the Dean of the Washington College of Law stating the nature and extent of the person's duties and privileges, and the duration of the appointment. The appointment automatically expires at the end of the appointment period unless it is renewed in writing. Appointment as a Research Professor confers no credit toward tenure.

Research Professors may attend faculty meetings, but shall have no voting privileges and shall ordinarily not serve on any committees.

e. Emeriti and Emeritae Term Faculty

Emeritus or emerita status is generally conferred on retiring term faculty members after active service of approximately eight years or more. Usually the Dean of the Washington College of Law initiates the process with a brief letter of commendation to the Office of the Provost. Term faculty who are designated as emeriti or emeritae are entitled to reasonable use of the facilities of the University consistent with the needs of the institution and shall be included in appropriate lists of the faculty of the Washington College of Law. Term faculty emeriti and emeritae who teach for the Washington College of Law after retirement shall be accorded the title of Term Faculty Emeritus or Emerita in Residence. Emeriti and emeritae term faculty retain their right to speak in faculty meetings but do not have voting rights unless they are serving as Emeriti/Emeritae-in-Residence. They may serve on committees and perform such other occasional services as are in keeping with their desires and capabilities and with the needs of the Washington College of Law.

f. Professional Obligations

In each academic year, all term faculty except Research Professors and Emeriti/Emeritae Term Faculty shall have a workload that consists primarily of teaching, will ordinarily include service, and may include scholarship. As part of their teaching responsibilities, term faculty members maintain a campus presence that reflects a commitment to students and to the Washington College of Law community. Term faculty members ordinarily carry a full course load each academic year. Legal Rhetoric faculty may, with the approval of the Dean of the Washington College of Law and the Director of Legal Rhetoric, teach any additional course beyond the ordinary course load of four courses in the first-year Legal Rhetoric curriculum. Practitioners-in-Residence in the Clinical Program teach in a clinic each semester. Practitioners-in-Residence also teach one non-clinical course per year, but only after their first year on the faculty unless they have relevant previous teaching experience. The actual course assignments for individual term faculty members may vary as defined by the Dean of the Washington College of Law, in consultation with the appropriate program director.

15. Term Faculty Appointments and Reappointments

a. Standards for Appointment

The Washington College of Law is deeply committed to a diverse faculty. The process of term faculty appointments must be consistent with the University's commitment to affirmative action, equal opportunity, and nondiscrimination. The Washington College of Law must demonstrate that it has vigorously taken steps to fulfill those commitments.

Appointments of Legal Rhetoric faculty and Practitioners-in-Residence in the Clinical Program will be made by majority vote of the faculty following a recommendation of the Committee on Appointments. Only tenure-line faculty members, Professors of Practice, and Legal Rhetoric faculty are eligible to vote for such appointments. A person initially recommended for such an appointment shall hold the juris doctor or equivalent professional or academic degree and shall have demonstrated the potential to achieve excellence in law teaching.

b. Faculty Actions for Term Faculty

Recommendations for initial appointment of Practitioners-in-Residence in the Clinical Program and Legal Rhetoric faculty are made to the faculty by the Committee on Appointments. Such appointments are initially for one academic year. Practitioners-in-Residence in the Clinical Program are ordinarily given one-year appointments for up to three years, with a fourth year in exceptional circumstances. Recommendations for reappointment of a Practitioner-in-Residence in the Clinical Program shall be based on an assessment of teaching and may also include consideration of scholarship and service as defined by this Manual. Following the initial appointment, the Committee on Rank and Tenure shall evaluate all Assistant Professors of Legal Rhetoric and make recommendations concerning reappointment and the title of the faculty member.

Reappointment of an Assistant Professor of Legal Rhetoric shall be based on an assessment of teaching, including engagement with students in and outside the classroom, and of the Assistant Professor's participation in the administration of the Legal Rhetoric Program, for example, through curriculum administration and development, institutional service, and professional service. This reappointment will normally be for two years and may not be renewed.

Appointment or promotion to Associate Professor of Legal Rhetoric shall require completion of at least three years as an Assistant Professor of Legal Rhetoric, or the equivalent. Such an appointment or promotion shall be based on an assessment of teaching, including academic engagement with students in and outside the classroom. In the case of a promotion to this rank, the person shall have contributed effectively to the administration of the Legal Rhetoric Program, for example, through curriculum administration and development, institutional service, and professional service. This appointment will normally be for three years and may not be renewed.

A person appointed as or promoted to a Professor of Legal Rhetoric shall have completed three years as an Associate Professor of Legal Rhetoric or the equivalent; have demonstrated excellence in teaching, including academic engagement with students in and outside the classroom, and have contributed effectively to the administration of the Legal Rhetoric Program, for example, through curriculum administration and development, institutional service, and professional service.

The Committee on Rank and Tenure shall evaluate all Professors of Practice and Professors of Legal Rhetoric and make recommendations concerning reappointment. Upon reappointment, Professors of

Practice shall have demonstrated excellence in law teaching, including academic engagement with students in and outside the classroom. During the fifth year of the long-term contract for a Professor of Practice or a Professor of Legal Rhetoric, and for all subsequent renewals, the long-term contract faculty member may apply for a contract renewal. The contract shall be extended unless it is demonstrated that the candidate does not continue to satisfy the conditions of appointment. If the results of the review are unsatisfactory, he or she would receive a one-year terminal appointment. Evaluation of all term faculty may include consideration of scholarship and service as defined by this Manual.

If a term faculty member is subsequently appointed to a tenure-line position, the faculty member may seek up to two years of comparable prior service toward tenure at American University. The Washington College of Law may also consider recommending appointments with up to four years of prior service under exceptional circumstances. Credit for prior service must be approved by the Committee on Rank and Tenure, the Dean of the Washington College of Law, and the Dean of Faculty. Faculty who negotiate a service credit in their initial contract may waive the entire credit or reduce the amount of the credit within one month after receiving their first annual review. Changes in credits must be in writing and filed with the Dean of Faculty. This waiver of prior credit has the effect of extending the pre-tenure period for the faculty member who originally claimed credit for prior service at the time of appointment to the Washington College of Law faculty. Thereafter, pre-tenure faculty may not reclaim or waive additional time credited toward tenure except in the most unusual circumstances. Faculty who waive all credit will revert to the standard six-year review schedule.

c. Contractual Terms of Service After the Initial Appointment

When the performance of a term faculty member under an initial contract is unsatisfactory, as determined by the Dean of Faculty in consultation with the Dean of the Washington College of Law and the Committee on Rank and Tenure, the Dean of Faculty may dismiss the faculty member before the contract expires. This unusual action would normally, but not always, be related to unsatisfactory teaching. A term faculty member dismissed for unsatisfactory performance during the initial appointment term is not entitled to the process outlined in *Disciplinary Actions, Investigations, and Formal Faculty Hearings* in section 19 of this Manual. However, the term faculty member dismissed under such circumstances has the right to contest the termination decision, using the University's grievance procedure for faculty.

d. Legal Rhetoric Term Faculty Review Process

The Dean of the Washington College of Law is responsible for providing to the chair of the Committee on Rank and Tenure a list of all Legal Rhetoric faculty members concerning whom personnel actions are to be considered by the Committee on Rank and Tenure for the following academic year. Such actions involve reappointment, promotion, award of a presumptively-renewable five-year contract, and leaves of absence.

Legal Rhetoric faculty members for whom personnel actions are under consideration must then be notified to submit appropriate documentation regarding their work, activities, and honors for review. The Committee on Rank and Tenure may act through subcommittees of tenured faculty members in gathering additional information, reviewing the entire file, and making a recommendation to the Committee on Rank and Tenure.

Legal Rhetoric faculty members whose files are considered may appear in person before the Committee on Rank and Tenure either at their own or at the Committee's request. At the conclusion of each case, a vote is taken, and the position of a majority of the quorum present becomes the formal action of the Committee on Rank and Tenure. The procedures of the Committee on Rank and Tenure do not permit voting by proxy.

If it appears that adverse action is to be recommended, that fact must be made known promptly in writing to the Legal Rhetoric faculty member. The Dean of the Washington College of Law receives from the chair of the Committee on Rank and Tenure a report explaining its recommendation for each individual considered. If the Dean of the Washington College of Law disagrees with any recommendation of the Committee on Rank and Tenure, he or she shall make that fact known in writing to the chair of the Committee on Rank and Tenure, together with his or her reasons, prior to forwarding the individual Personnel Action Form, report, and recommendation to the Dean of Faculty.

e. Credit for Prior Service for Legal Rhetoric Faculty

Qualified candidates for Legal Rhetoric faculty positions may seek up to two years of prior service toward earning a presumptively-renewable five-year contract as a Professor of Legal Rhetoric at American University. Credit for prior service must be approved by the Committee on Rank and Tenure, the Dean of the Washington College of Law, and the Dean of Faculty. This service credit may be based on experience at another institution of higher education.

f. Resignations of Term Faculty

A term faculty member who wishes to resign from the University while under contract must submit a written request to the Dean of the Washington College of Law, including any conditions relating to the resignation. The request shall then be tendered to the Dean of Faculty, who, after consultation with the term faculty member and the Dean of the Washington College of Law, will notify the term faculty member whether the resignation is accepted.

g. Death While on Active Service

Upon the death of a term faculty member with ten years or more of continuous full-time service to the University (including time on approved leave, including disability leave), the University will pay a

lump sum equal to twenty percent of the term faculty member's base annual salary to the representatives of the decedent's estate.

OTHER FACULTY

16. Academic Titles

Appointment or reappointment to any of the positions described in this section does not confer membership on either the tenure-line or term faculty. This Section does not affect the status or reappointment of faculty who were appointed before September 1, 2018, nor does it prevent future development of this classification.

a. Visiting Faculty

A person who is on leave from the full-time teaching faculty of either an accredited law school or a comparable institution of higher education may be appointed for a semester or on an annual basis as a Visiting Assistant Professor, Visiting Associate Professor, or Visiting Professor. Appointments and reappointments of visiting faculty shall be made by majority vote of the faculty following a recommendation of the Committee on Appointments. Only tenure-line faculty members are eligible to vote for such appointments. A visiting appointment should not be renewed for more than one additional, consecutive year.

b. Adjunct Faculty

i. Adjunct Faculty Ranks

An adjunct faculty appointment allows an individual to contribute to the instructional program on a part-time basis. Adjunct faculty ranks in the Washington College of Law are Adjunct Assistant Professor, Adjunct Associate Professor, and Adjunct Professor. Each adjunct faculty appointee must have the appropriate educational background and professional experience to ensure his or her competence in the particular course for which the adjunct faculty member is to be responsible. An adjunct faculty member under consideration for promotion to the rank of Adjunct Associate Professor, or Adjunct Professor shall have at least three years' satisfactory teaching experience at this or another accredited law school.

The Washington College of Law may award the rank of Distinguished Adjunct Professor to a candidate whose qualifications correspond with the rank of adjunct professor and who has demonstrated over a period of time distinguished service in law and outstanding teaching performance.

Persons may serve as adjunct faculty without limit of time through successive reappointment. These appointments carry no credit toward tenure. Adjunct faculty have access to specific facilities that

support their teaching, as provided by the Washington College of Law.

ii. Faculty Action Procedures for Adjunct Faculty

The Washington College of Law recommends adjunct faculty appointments and reappointments according to procedures the Dean of Faculty establishes, and subject to approval by the Dean of Faculty. Adjunct faculty receive compensation only for those semesters during which they receive a contract to teach (“contract period”) and are not entitled as of right to employment outside the contract period. A member of the adjunct faculty who has not been called upon to teach for three successive academic years shall be removed from the roster of adjunct faculty. The terms and conditions of employment for adjunct faculty covered by the Collective Bargaining Agreement between American University and the Service Employees International Union, Local 500 will be governed by that agreement.

FACULTY PROCESSES

17. Appeal Procedures for Denial of Reappointment, Tenure, or Promotion of Tenure-Line Faculty and Certain Term Faculty

These procedures apply to appeals related to denials of reappointment, promotion, law library faculty continuing appointment, or tenure (“appeal procedures”).

The following categories of faculty may use these appeal procedures: 1) tenure-line faculty; 2) continuing appointment-line law library faculty; and 3) term faculty who have five or more years of consecutive full-time service. A faculty member may appeal (on limited bases) a final action by the provost regarding nonrenewal, non-promotion, or denial of tenure. All parties involved will maintain confidentiality throughout the process and after the process is complete; only relevant information will be shared with persons with a legitimate need to know. Breaches of confidentiality may subject the person to disciplinary action as described in *Disciplinary Actions, Investigations, and Formal Faculty Hearings* in section 19 of this Manual.

a. Bases for Appeal

A faculty member may file an appeal for any of the following reasons:

1. The decision was a result of a violation of the University’s Discrimination and Non-Title IX Sexual Misconduct Policy. Notwithstanding any provision in these appeal procedures, all Title IX discrimination complaints will be resolved in accordance with the Title IX Sexual Harassment Policy.
2. The decision process materially deviated from the requirements of this Manual, rules, practices and procedures implementing it, or other written supplemental criteria and procedures approved by the provost, and such deviation resulted in a negative personnel decision; or
3. Evidence that existed before the provost’s or Dean of Faculty’s decision that was not discovered

despite appropriate diligence on the part of any party and is likely to change the outcome of the decision.

b. Initiation of the Appeal Process

The faculty member must notify the Committee on Faculty Grievances in writing of his or her intent to file an appeal, with a copy to the Office of the Provost, within 30 days of receiving a decision by the provost or the Dean of Faculty. The faculty member must submit a written appeal with supporting documentation to the Committee on Faculty Grievances, with a copy to the provost or Dean of Faculty, within 60 days of notifying the Committee of the intent to appeal. The appeal must state clearly the grounds for the appeal and the supporting facts and evidence and, if applicable, provide a preliminary list of individuals who may have information relevant to the appeal.

c. Committee Procedures and Process

i. Preliminary Review

(1) The Committee on Faculty Grievances will conduct a preliminary review of the case to determine whether the appeal (i) is timely and (ii) has articulated a proper basis for appeal. Mere disagreement with the provost's or Dean of Faculty's assessment of the faculty member's qualification is not a proper basis for appeal and such an appeal will be dismissed. If an appeal is dismissed under this paragraph, there shall be no further right to appeal. The Committee will notify the faculty member of its dismissal decision, with a copy to the president and provost or Dean of Faculty.

(2) If the Committee on Faculty Grievances decides that an appeal does not merit review, the Committee will forward its recommendation to the president with a copy to the faculty member and Dean of Faculty or provost. The recommendation must state the reasons for not reviewing the appeal. The president may affirm the Committee's recommendation or remand the case to the Committee for further review.

ii. Full Review

(1) If the Committee on Faculty Grievances conducts a full review of the appeal, the Committee may take the following steps to evaluate the appeal: (i) review the written appeal and supporting documentation, (ii) review relevant policies and other documents, (iii) review the original file for action, (iv) gather information from or consult with individuals who have relevant information, and (v) any other reasonable steps. In addition, the Committee will invite the grievant to meet with the Committee to discuss the investigation.

(2) For appeals that the personnel decision was a result of a violation of the University's Discrimination and Non-Title IX Sexual Misconduct Policy, the Committee and the Office of Equity and Title IX or designee will work together to address the discrimination claim. Specifically, the Office of Equity and Title IX will investigate the discrimination complaint and issue its findings in an investigation report to the Committee. The Committee will consider the findings of the investigation report in evaluating the

faculty member's appeal. The investigation report will be appended to the Committee's report to the president.

- (3) The Committee may consult with the Office of General Counsel on legal issues related to the appeal.
- (4) The Committee's role is solely to determine whether sufficient evidence exists to support the grounds for appeal and, where appropriate, to recommend corrective action. The Committee does not substitute its judgment or assessment of the faculty member's qualification for tenure, promotion, law library faculty continuing appointment, or reappointment. In reviewing an appeal, the Committee may not make a recommendation for tenure, promotion, law library faculty continuing appointment, or reappointment.
- (5) Faculty personnel decisions are made on a case-by-case basis. Except in cases of alleged discrimination, personnel decisions regarding other faculty are not relevant to the Committee's review. Thus, the Committee will not normally have access to the files of other faculty members. If after considering the privacy interests of the faculty and other parties involved, the Committee believes that access to such files would likely aid materially in the disposition of the complaint, the Committee will submit a written request to the Dean of Academic Affairs. The request for information must describe the basis for the complaint, the issue under review, and the relevance of the comparative files to the complaint. The request will also include the name of two Committee members designated to meet with the Dean of Academic Affairs, or a designee of the Dean of Academic Affairs, to (1) determine if other sources of information will fulfill the Committee's need in lieu of access to personnel files; and (2) select only those files that will best serve to meet the Committee's need absent other sources. The designated Committee members will provide the other sources of information to the Committee or, if applicable, arrange a meeting of the Committee to review the selected files.
- (6) The Committee on Faculty Grievances will submit its findings and recommendations in a written report that is supported by a majority vote of the full Committee. This report must include the majority and minority views and the recommendations supported by the majority.
- (7) The chair of the Committee will send the report along with supporting documentation to the president with a copy to the faculty member, and provost or Dean of Faculty. The faculty member will have one week to submit to the president a written response to the report.
- (8) After receiving the report of the Committee on Faculty Grievances, the president may meet with the faculty member or other persons, request additional information from the Committee on Faculty Grievances, or take additional steps as needed to review the appeal.
- (9) The president will affirm, overturn, or amend the provost's or Dean of Faculty's initial decision or remand the case to the provost or Dean of Faculty. The president must state the reasoning for his or her action in writing to the faculty member, the Committee on Faculty Grievances, and the Office of the Provost. The president's decision is final.

(10) The final record of the appeal (including the formal appeal, documentary evidence, the Committee's recommendation, and the president's final decision) will be retained under the direction of the Office of the Provost in accordance with the University's policy on retention of written records.

18. Faculty Grievances

a. Scope

i. Purpose

The University encourages faculty members to resolve their disagreements with the University or other faculty members through informal, frank, and open discussion. However, the University also recognizes that occasionally more formal processes are needed.

ii. Who May Use this Grievance Process

Accordingly, this grievance policy may be used to resolve grievances within the University by the following categories of faculty: 1) tenure-line; 2) term faculty; 3) other faculty in full-time positions as described in section 16 of this Manual; and 4) continuing appointment-line law library faculty.

iii. Types of Grievances Not Covered by this Grievance Process

The exclusions to this grievance policy include: 1) non-reappointment of a term faculty contract and 2) any other grievance or appeal that is specifically covered by another policy, process, or procedure (e.g., tenure-line promotions and tenure matters, discrimination complaint, research misconduct).

iv. No Retaliation

No individual will be penalized, disciplined, or prejudiced for, in good faith, exercising the right to make a complaint or for aiding another individual in pursuing a complaint. Persons obstructing this grievance process may be disciplined up to and including dismissal. Each step outlined below should be taken in a timely fashion.

b. Confidentiality

All parties involved will maintain confidentiality throughout the process; only relevant information will be shared with persons with a legitimate need to know. Breaches of confidentiality may subject the person to disciplinary action as described in *Disciplinary Actions, Investigations, and Formal Faculty Hearings* in

section 19 of this Manual.

c. Informal Resolution

The University encourages individuals to address problems and disputes promptly as they arise, through direct discussions. If discussion with a colleague does not lead to a resolution, a faculty member or administrator with faculty status may take the matter to the Washington College of Law Office of Academic Affairs or the Dean of the Washington College of Law. If the grievance cannot be resolved by the responsible administrator or if the grievant does not want to involve such an administrator, then the grievant may submit a written request to the Dean of Faculty for assistance in resolving the matter informally. If a conflict of interest prevents the Dean of Faculty from facilitating resolution, he or she may appoint a designee. The person who will facilitate the resolution may consult with relevant individuals, review relevant documents, and attempt to resolve the matter informally.

If the complaint cannot be resolved informally, the grievant may then file a grievance with the Committee on Faculty Grievances. However, an informal resolution can occur at any time, even after the formal process has been initiated.

d. Handling of Formal Grievances by the Committee on Faculty Grievances

i. Filing of Formal Grievance

The formal written grievance should consist of the grievant's written statement concerning the substance of the complaint, the history of attempts to resolve it, and the relief sought. It should include the name, telephone number, and e-mail address of the grievant and a preliminary list of individuals who may have information relevant to the deliberations of the Committee on Faculty Grievances.

ii. Preliminary Action

If acceptable to both parties, the chair of the Committee on Faculty Grievances may attempt to resolve the problem without involving the full committee. If a resolution is reached, both parties and the Committee will receive a written report from the chair of the Committee on Faculty Grievances. If an informal resolution cannot be reached, then the grievant can request from the Committee on Faculty Grievances a review of the formal complaint.

iii. Committee's Review

The Committee on Faculty Grievances will investigate the complaint through discussions with relevant parties and consideration of relevant documents. Relevant parties will include the grievant, the

person(s) whose actions form the substance of the complaint, and any other person who may have information that the Committee deems relevant. The Committee may request or invite additional documentation from relevant parties, and it may invite relevant parties to meet with it. It will require all parties whom it contacts to keep the matter confidential.

iv. Committee's Report and Disposition

The Committee on Faculty Grievances will record its findings and recommendations in a written report. The Committee will consult Office of General Counsel to consider any legal issues before the report is finalized. Ordinarily, the Committee will submit the report and a copy of the grievance to the provost and send a copy of the report to the grievant. If the provost is the subject of the complaint or has had substantial involvement in the issues giving rise to the complaint, the Committee will submit the report and a copy of the grievance to the president instead of the provost. The grievant will have one week to submit to the provost (or, if the report was submitted to the president, the president) a written response to the report.

Following review of the report, the provost (or president) will issue a statement to the grievant, the person(s) whose actions are the substance of the complaint, and the Committee on Faculty Grievances indicating what action will be taken by the University and, if the action is at variance with the Committee's recommendation, the reasons for such action.

The final record of the grievance (including the formal grievance, documentary evidence, the final grievance report, and the provost's or president's statement) will be retained under the direction of the Office of the Provost in accordance with the University's policy on retention of written records.

19. Disciplinary Actions, Investigations, and Formal Faculty Hearings

a. Purpose and Scope

This section on Disciplinary Actions, Investigations, and Formal Faculty Hearings ("disciplinary policy") provides the process for investigating and resolving faculty misconduct, except as noted in section 19(b) and as modified in section 19(c). This disciplinary policy applies to full-time faculty. Each step in the informal inquiry and hearing process should be taken in a timely fashion.

When a faculty member fails to fulfill his or her employment obligations or engages in misconduct (collectively referred to as "misconduct"), the University will take appropriate action. The University's response to allegations of faculty misconduct may vary according to the nature of the misconduct, its seriousness, its impact on the University's reputation or the well-being of other members of the AU community, and prior record of misconduct.

Misconduct includes, but is not limited to, incompetence, bullying, sexual or discriminatory harassment, discrimination, a pattern or practice of failing to meet University contractual

obligations, failure to carry out the obligations of one's position, violations of University policies, or violations of scholarly integrity.

b. Matters Not Covered by this Disciplinary Policy

This disciplinary policy does not apply to resolution of: 1) Title IX Sexual Harassment Policy complaints and 2) personnel matters that are covered by another policy, process, or procedure.

c. Matters Requiring a Modified Disciplinary Process

Complaints under the University's Discrimination and Non-Title IX Sexual Misconduct Policy ("general discrimination policy") will be investigated under that policy.

If resolution of a general discrimination policy complaint warrants disciplinary action, the case is referred to the Provost's Office for the issuance of appropriate disciplinary action. If the provost believes major sanctions are warranted, the case will be referred for a major sanctions hearing outlined in Section 19(i) below.

d. Disciplinary Sanctions

Disciplinary sanctions apply to any full-time appointment, including, but not limited to, one with tenure. Disciplinary sanctions fall into two categories:

- minor sanctions, which include any adverse employment action short of suspension, such as a reprimand, cautionary letter to the file, or short-term financial or administrative remedy; and
- major sanctions, which include suspension or dismissal from employment.

e. Confidentiality and Disciplinary Actions, Investigations, and the Formal Hearing Process

All parties involved will maintain confidentiality throughout the process; only relevant information will be shared with persons with a legitimate need to know. Breaches of confidentiality may subject the person to disciplinary action as described in this section of the Manual.

f. Informal Procedures and Resolution by the Dean of the Washington College of Law

Any member of the community may report a concern of faculty misconduct by informing the Dean of

the Washington College of Law. The Dean of the Washington College of Law or designee may attempt to resolve the issue through an informal process involving all parties to the issue. If informal resolution fails or if the Dean of the Washington College of Law determines that the allegation of misconduct has merit and is sufficiently serious for disciplinary action, he or she will refer it to the Office of the Provost. Complaints within the jurisdiction of the University's Discrimination and Non-Title IX Sexual Misconduct and Title IX Sexual Harassment policies must be reported to the Office of Equity and Title IX for resolution.

g. Resolution by the Office of the Provost

i. Upon receipt of an allegation of faculty misconduct, the Dean of Faculty or designee will: a) conduct an initial review of the allegation, including notifying the relevant parties of the allegation; b) assess whether the case is appropriate for informal resolution; and c) if informal resolution is not appropriate or not possible, then the matter will be investigated.

The Dean of Faculty or designee may consult with parties to the matter before determining the initial disposition of the case. The complainant and respondent may each bring a person from the American University community to attend any meetings with the Dean of Faculty or designee but not to advocate on the party's behalf. The Dean of Faculty or designee may also seek external or internal expertise and assistance in developing a review or investigation of the case.

After a review or investigation of the matter, the Dean of Faculty or designee will provide written findings (if applicable) and resolution to the matter to the parties. The resolution by the dean of faculty or designee may include the following actions: (1) dismissal of the case, (2) informal resolution of the case agreeable to all parties, (3) a minor sanction, or (4) a referral to the provost for major sanction under this policy (see section 19(g)(ii)). A minor sanction must be supported by a preponderance of the evidence.

The decision to dismiss the case, issue a minor sanction, or otherwise resolve the case is final; however, the faculty member may grieve a minor sanction according to the procedures for filing a grievance under the Faculty Manual Section 18 Faculty Grievances.

ii. If the provost believes that further examination of the charges may result in a major sanction, the provost will refer the case for a formal faculty hearing. However, the faculty member may waive the right to the hearing and choose to have the case decided by the provost. In that case, the provost's decision will be final and may not be appealed or grieved further.

h. Concurrent Grievance and Disciplinary Proceedings

When a grievance by a faculty member derives from substantially the same facts and circumstances as a proposed disciplinary action against the faculty member, the Committee on Faculty Grievances will

seek an informal resolution. If an informal resolution fails, the grievance and the disciplinary action will be addressed separately according to the procedures outlined for each in this Manual. When both procedures are completed, the Committee on Faculty Grievances and the hearing panel will submit separate reports to the Office of the Provost.

i. Procedures for Formal Faculty Hearings in Cases That May Result in Major Sanctions or Dismissal from the University

i. Filing of Statement of Charges for Disciplinary Action

The provost will notify the faculty member of the intent to file charges, initiate a request for a formal hearing panel, and appoint the Dean of Faculty or designee to serve as complainant (“University representative”) in the disciplinary proceeding. The faculty member may make a written request with justification (such as conflict of interest) for the appointment of a different University representative. If the provost decides to retain the original designee, he or she will provide a written statement citing the reasons for not changing the designee. The faculty member’s request and the provost’s statement will be included in the filing of the statement of charges. The University representative must file the statement of charges with the Faculty Senate chair. The statement of charges must summarize the relevant facts and circumstances of the alleged misconduct and include a preliminary list of individuals (and their contact information) who may have relevant information. The University representative will send a copy of the statement of charges to the faculty member. The faculty member may elect to present to the hearing panel a written statement responding to the charges.

ii. Hearing Panel

The past chair of the Faculty Senate (or the current vice chair of the Faculty Senate, if a conflict of interest exists) will convene the Faculty Senate Executive Committee and present the members with a general description of the case. The Faculty Senate Executive Committee members will select five senior faculty members and five alternates from the Faculty Hearing Committee to serve on the hearing panel. The Faculty Senate Executive Committee is charged with taking special care to achieve a reasonably balanced representation. Executive committee members and selected panelists deeming themselves disqualified for bias or conflict of interest are expected to immediately remove themselves from the selection process for panelists on their own initiative. The chair of the Faculty Senate will present the five panelists to the University representative and the faculty member. The faculty member and the University representative each will be allowed two peremptory challenges of panelists. The chair of the Faculty Senate will replace any member so removed with a member from the list of five alternates. The hearing panel will select a chair.

A hearing panel has the prerogative to attempt informal resolution before proceeding to a formal hearing. If the hearing panel cannot resolve the matter informally, then it will schedule a formal hearing. The following general hearing provisions will apply:

- 1) The hearing panel may modify these procedures, if necessary, for the fair and expeditious administration of these proceedings.
- 2) The hearing panel will conduct a prehearing conference with the faculty member and the University representative to clarify the issues, stipulate facts, finalize the list of individuals who may have information relevant to the hearing, provide for the exchange of documentary or other information, and identify other appropriate objectives to make the hearing fair, effective, and expeditious. The panel will maintain a record of the prehearing conference.
- 3) The chair of the hearing panel will notify all concerned parties of the time and location of the hearing. Notice of the hearing must be in writing and, customarily, made at least two weeks prior to the hearing.
- 4) Time extension or rescheduling requests by the faculty member or the University representative may be granted by the chair for good cause.
- 5) The faculty member may waive the hearing or respond to the specific charges in writing at any time before the hearing. In the event the faculty member waives the hearing but denies the charges or asserts that the charges do not support a finding for a major sanction or dismissal from the University, the panel will hear the case based on the evidence directly related to the charges.
- 6) Customarily, the hearing will proceed in the absence of either the faculty member or the University representative who fails to appear at the hearing after receiving notification. Only circumstances that are beyond control and that prevent a party's attendance at the hearing will constitute good cause to reschedule the hearing. The hearing panel will make the determination as to whether or not there is good cause for the absence.
- 7) The burden of proof rests with the University when considering whether a faculty member has engaged in misconduct warranting a major sanction. The charges against the faculty member must be established by a preponderance of evidence in the record as a whole.
- 8) A full panel must hear the case.
- 9) All hearings are closed to the public. The hearing panel, at its sole discretion, may remove participants in the hearing who are disruptive to the process.
- 10) The hearing panel may invite persons from inside or outside the University to give testimony relevant to the matter, and either party to the matter may request that the panel invite such persons. University personnel will make every effort to cooperate with the panel in securing witnesses and making available documentary and other evidence. The parties shall have the right to cross-examine all witnesses.
- 11) The faculty member may receive the assistance of counsel of her or his choosing and at her or his cost. Counsel may be present to advise the faculty member but may not address the panel directly and does not otherwise participate in the hearing process.
- 12) The hearing panel may seek legal counsel through the Office of General Counsel.
- 13) The hearing panel is not bound by strict rules of legal evidence.
- 14) The hearing will be recorded, and a complete, verbatim written record of the hearing will also be kept. At the conclusion of the hearing, the parties may have access to the hearing recording and the full evidentiary record. The chair of the hearing panel, upon consultation

with the Provost's Office, will provide a written record of the hearing to the parties. The chair of the hearing panel, upon consultation with the Provost's Office, may redact such written record to remove personally identifying information if required by applicable federal or local privacy laws. The parties may file with the chair of the hearing panel written closing statements. Copies of any closing statements received will be transmitted by the chair to the other relevant parties, and the chair will accept rebuttals to the closing statements during a specified period of time determined by the hearing panel.

15) After the parties have had an opportunity to review the record of the hearing, submit closing statements, and make rebuttals to the closing statements, the hearing panel will deliberate in closed session and prepare its report.

16) The findings and recommendations of the hearing panel will be in a written report that is supported by a majority vote of the full committee. The chair of the hearing panel will send the report to the provost or, if the provost has a conflict, to the president, and a copy of the report to the faculty member.

17) The provost or president may approve, reject, or amend such findings and recommendations. The provost or president must state the grounds for his or her action in writing to the hearing panel and the faculty member. The faculty member may appeal the provost's or president's decision following the procedures for appeal in section 19(k), *Appeal Procedures for Major Sanctions and Dismissal Actions*.

18) The final record of the hearing, the statement of charges, documentary evidence, the final report, and the provost's or president's statement will be retained under the direction of the provost's office in accordance with the University's policy on retention of written records.

19) The provost or president may suspend a faculty member for an interim period pending disciplinary or criminal proceedings ("interim suspension"). An interim suspension will be used only in cases where the provost determines (1) that the continued presence of the faculty member at the University poses a substantial and immediate threat to the faculty member or others or to the stability and continuance of normal University functions, operations, or processes; or (2) that the continued presence of the faculty member would be otherwise disruptive. The provost may also assign the faculty member to alternative duties pending disciplinary or criminal proceedings.

j. Termination of Salary and Benefits

Termination for cause may follow immediately after the final decision of the provost or president through the processes specified above in *Disciplinary Actions, Investigations, and Formal Faculty Hearings* in section 19 of this Manual. Final notification of termination will be given in writing to the faculty member within 30 days after the provost's or president's decision to terminate. The faculty member is not entitled to further payment of salary and related benefits, except as required by law, after the effective date of termination. If the termination is overturned following the appeal procedures in the next section, the faculty member will be reinstated with back pay.

k. Appeal Procedures for Major Sanctions and Dismissal Actions

A faculty member may file a written appeal of a disciplinary major sanction or dismissal action to the president or, if the president has a conflict, to the Academic Affairs Committee of the Board of Trustees. The written appeal must be filed within 30 days of receipt of the provost's or president's decision. An appeal is only permissible for the following reasons:

- The major sanction is excessive in light of the misconduct findings.
- New, relevant, and material evidence is available that (1) was unavailable at the time of the provost's decision, and (2) is likely to change the outcome of the provost's decision.

The president or the Academic Affairs Committee of the Board of Trustees will review the appeal. The review will be based on the record of the hearing and the faculty member's written appeal. The president or the Academic Affairs Committee of the Board of Trustees may meet with the faculty member or other persons if needed. The president or the Academic Affairs Committee of the Board of Trustees may approve, reject, or amend such findings and recommendations and must state the grounds for his or her action in writing to the hearing panel, provost or the Dean of Faculty, and faculty member. If the president or the Academic Affairs Committee of the Board of Trustees decides to amend the recommendation, the amendment may reflect a lessening or a strengthening of the recommended action. The president's or the Academic Affairs Committee of the Board of Trustees' decision is final.

l. The Final Record of Disciplinary Matters

Disciplinary records are retained under the direction of the Office of the Provost in accordance with the university's policy on retention of written records. All records are confidential with access only to individuals with a legitimate need to know as determined by the Provost's Office (e.g., deans and department chairs).

20. Policy on Termination of Faculty Positions as a Result of Financial Exigency

The University reserves the right to restrict or otherwise limit faculty appointments and has the right to eliminate faculty positions, including those occupied by tenured faculty, as a result of a bona fide financial exigency ("Financial Exigency") at the University. American University defines Financial Exigency as an imminent financial crisis; that is, there is a current or projected absence of sufficient funds for the campus as a whole and for the Washington College of Law in particular to maintain programs and activities at a satisfactory level to fulfill its educational goals and priorities, and the imminence of the financial crisis can only be resolved by extraordinary means. Final determination of all matters related to declaration of Financial Exigency and related retrenchment plans rests with the Board of Trustees. The Board of Trustees reserves the right to change the procedures and timelines in this policy as needed to effectuate orderly and fiscally responsible retrenchment and reorganization

plans.

a. Procedures for Determining Financial Exigency and Retrenchment Plans

i. Declaring Financial Exigency

If the Board of Trustees believes that a Financial Exigency within the University exists or is imminent, the Board shall consult with the president, the Vice President of Finance and Treasurer, as well as the provost, other senior administrators and the Faculty Senate Executive Committee or its designee prior to making the Board's declaration of a Financial Exigency. If the financial exigency will have an impact upon the Washington College of Law, the Committee on Rank and Tenure, or its subcommittee designee, will be substituted for the Faculty Senate Executive Committee or its designee, to consult with the other entities.

In consultation with the above entities, the Board of Trustees will provide relevant financial and programmatic information upon which its initial assessment is based. The Committee on Rank and Tenure, or its subcommittee designee, shall consider whether the material supports a determination of Financial Exigency and, within 15 calendar days after receipt of the Board's initial assessment of Financial Exigency, submit its findings and recommendations to the Board. The Board shall take into account such recommendations along with those of the president, the provost, and other senior administrators, before declaring a Financial Exigency and its effective date ("Effective Date of Financial Exigency").

ii. Establishing the Retrenchment Plan

Within 45 calendar days after the Effective Date of Financial Exigency, the president, in consultation with the provost, the Dean of the Washington College of Law, and the Committee on Rank and Tenure, will establish a retrenchment plan for the Washington College of Law. The plan will identify services, programs, and the faculty members affected ("Retrenchment Plan"). The Retrenchment Plan will take into account the following principles:

- With respect to matters affecting faculty or reduction or redistribution, consideration shall be given to academic needs and educational mission of the Washington College of Law and the service of the affected faculty member(s).
- Priority shall be given to identifying measures that the Washington College of Law can take before eliminating faculty positions.
- A faculty member with tenure will not be terminated in favor of retaining a faculty member without tenure. For exceptions to this policy, the provost will provide an explanation in writing to all parties involved.
- A term faculty member with a longer continuous service will not be terminated in favor

of retaining a term faculty member with less continuous service. For exceptions to this policy, the provost will provide an explanation in writing to all parties involved.

Because it directly affects the educational policy of the Washington College of Law and the status of members of the faculty, the decision that a state of financial exigency exists shall be accorded the broadest possible consideration of the matter within the Washington College of Law community. Thus, the decision shall be analyzed and discussed by the administration, faculty, and students of the Washington College of Law.

Consideration shall be given to what services, programs, or units will be affected, the need for faculty reduction or redistribution, and the future development of institutional policy. In particular, consideration shall be given to what other measures short of terminating tenured faculty can be taken. Should termination of tenured faculty be required, the provost shall so notify the Committee on Rank and Tenure or its designated subcommittee, which shall have the responsibility for reviewing the identification of individual Washington College of Law faculty members whose appointments are to be terminated in accordance with the provisions of this Manual, and which shall make its recommendation to the provost within thirty days. With respect to matters affecting faculty reduction or redistribution, consideration shall be given to academic criteria, affirmative action compliance requirements, and the length of service of the faculty member so affected.

b. Financial Exigency Termination and Review Provisions

i. Elimination of Faculty Positions

The provost will notify the Committee on Rank and Tenure or its designated subcommittee of any proposed eliminations of faculty positions due to Financial Exigency. Within 15 calendar days after receiving the proposal, the Committee on Rank and Tenure or its designated subcommittee may submit recommendations to the provost. After receiving such recommendation, the provost and president will make a final determination on the Retrenchment Plan and its effective date (“Effective Date of Retrenchment Plan”), both of which are subject to approval by the Board of Trustees.

ii. Terminal Salary or Termination Notice for Tenure-Line Faculty and Term Faculty

The provost will provide tenure-line and term faculty whose appointments are to be terminated due to Financial Exigency with six month’s written notice prior to the termination of their appointments. The notice will include a statement of the basis for the decision. The University may shorten or eliminate the period of advance notice by providing equivalent salary and benefits. Tenure-line faculty and term faculty may request review of the termination decision on procedural grounds as described in *Review Procedures for Termination of Tenure-line and Term Faculty as a Result of Financial Exigency* in

section 21 of this Manual.

iii. Provisions for Tenure-Line and Term Faculty Affected by Financial Exigency Plans

If, for reasons of Financial Exigency in which terminating a tenure-line or term position is proposed, such termination shall be considered only as a last resort after every reasonable effort has been made to meet the need in some other way and to find for the faculty member a suitable assignment, for which she or he is already qualified, in the Washington College of Law.

iv. Reinstatement Rights

In all cases in which a tenure-line or term position has been eliminated due to Financial Exigency, the University will not fill the position of the faculty member so terminated within two years of the Effective Date of Financial Exigency, unless the released faculty member has been offered reinstatement in that position and has not accepted the offer within a reasonable period specified by the University.

21. Review Procedures for Termination of Tenure-Line, Continuing Appointment-Line Law Library Faculty, and Term Faculty as a Result of Financial Exigency

In the event that it becomes necessary for the University to terminate a tenure-line, continuing appointment-line law library faculty (except as modified by Section VIII of the WCL Law Library Faculty Manual), or term faculty member before the termination date of the individual's contract, the affected faculty member has the right to a formal hearing before a hearing panel of five faculty members selected by the Committee on Rank and Tenure from among its members. The faculty member seeking the review shall submit a request for hearing in writing to the provost within thirty days of receipt of notice of proposed termination. Within ten days of receipt of such request, the provost shall submit to the Committee on Rank and Tenure, as provided in *Disciplinary Actions, Investigations, and Formal Faculty Hearings* in section 19 of this Manual, a notice of proposed termination with supporting documentation for the proposed action.

All requests for a formal hearing must be accompanied by a written statement from the faculty member indicating the reasons for the requested hearing and the evidence on which the faculty member intends to rely. The request for review must be based on one of the following grounds:

- The criteria used to identify the individual faculty member for termination did not adhere to the approved Retrenchment Plan.
- The criteria for termination were improperly applied to the faculty member.
- The University failed to consider the faculty member for a suitable position within the University for which the faculty member is qualified.

- The termination decision was the result of discrimination prohibited by applicable federal or local law.

A matter forwarded to the Committee on Rank and Tenure for the formal hearing will be heard within thirty days by the hearing panel. The panel will select one of its members to serve as chair. Members deeming themselves disqualified for bias or interest will remove themselves from consideration of the matter, either at the request of the faculty member in question or on their own initiative. The Committee on Rank and Tenure will replace any member so disqualified.

The panel chair will notify the provost and the faculty member of the time and place at which the hearing is to be held. Service of notice of the hearing will be made at least ten days prior to the date of this hearing. The faculty member may waive the hearing or submit a statement in writing at any time before the hearing.

The hearing panel may invite persons to give testimony relevant to the matter, and either the provost or the faculty member may request that the panel invite such persons. University personnel will make every effort to cooperate with the panel in securing witnesses and making available documentary and other evidence.

A tape recording will be made of the hearing and will be available, together with any documents introduced at the hearing, for copying at the requesting party's cost. The faculty member may at the conclusion of the hearing file a written closing statement based on the record.

After an opportunity has been given to the faculty member to review the record of the hearing and to submit a closing statement no more than ten days following the conclusion of the hearing, the hearing panel will prepare findings and a recommendation that shall be reported to the Committee on Rank and Tenure and the provost, with a copy furnished to the faculty member. The provost, within ten days of receipt and review of the report, will issue a statement to the panel and the faculty member indicating the action that will be taken, and if such action is at variance with the recommendation of the hearing panel, the reasons therefor.

a. Appeal

If a faculty member disagrees with the final decision of the provost, the faculty member, within ten days of issuance of the statement of the provost, may appeal that decision to a panel of the Executive Committee of the Board of Trustees, to be appointed by the chair of the board, such panel to consist of from three to five members, including at least one Washington College of Law alumnus Board member if at all possible. The panel's review will be based on the record considered as a whole, and it will provide opportunity for oral and written argument by the parties or their representatives. The decision of the panel will either be sustained or the proceeding remanded to the provost, the Committee on Rank and Tenure, or the hearing panel with specific instructions. Within twenty days of such remand, the provost, Committee on Rank and Tenure or the hearing panel, as appropriate, will reconsider its decision, taking into account the stated objection and receiving new evidence if necessary. The

Executive Committee panel of the Board of Trustees will make a final decision only after study of the hearing panel's reconsideration and its decision thereafter is final, non-grievable and non-appealable.

FACULTY BENEFITS AND OPTIONS

22. Leaves of Absence

a. Justification for Leave

The University endeavors, to the extent possible and practicable, to allow full-time faculty members to be released temporarily from their assigned duties for such reasons as:

- scholarly/professional contributions activities;
- postdoctoral or other studies beyond the normal terminal degree in the faculty member's discipline or a related discipline;
- teaching as a visiting member of the faculty at the invitation of another college or university;
- service in government and other public or private institutions, if such service is clearly related to the teaching assignment or research interests of the faculty member;
or
- military service and essential national defense activities temporary residence in another area for a spouse's or domestic partner's employment recuperation of health, pursuant to the Family Medical Leave Act (FMLA).

Generally, leave requests must be supported with appropriate documentation, including an application for leave of absence, demonstrating why the request should be granted. Leave requests based on medical or family need will be processed in coordination with Human Resources to ensure compliance with the University's family and medical leave policy and legal requirements. Otherwise, a leave of absence is granted on a case-by-case basis and must depend on the ability of the Washington College of Law to permit the leave without significant additional expense and without detriment to its programs. Faculty members with administrative assignments at all levels must understand that their absence on any type of leave may so adversely affect the ongoing operations of the University that the University may deny otherwise laudable requests for leave on administrative grounds.

All leaves and the related terms must have the prior written approval of the University (timely requests must be made to the Dean of Faculty). When a leave of absence is granted, a full-time faculty contract will set forth the terms of the leave. The faculty member's name and position may continue to appear in faculty listings in catalogs and other official publications during the period of the leave of absence.

b. Limitations and Conditions

The University cannot permit any members of the full-time faculty to be away from their duties on any type of leave (or combination of types of leave) for more than two successive years, unless the provost grants an exception in extraordinary circumstances, or the University is legally obligated to permit leave for reasons such as, but not limited to, extended illness or required active military duty. Ordinarily, faculty members who choose to extend a leave beyond two years without authorization will forfeit their positions at the University, even if they have not submitted a formal letter of resignation. The University will endeavor to notify the faculty member in advance of the forfeiture, but such forfeiture shall be final regardless of whether prior notification has been received.

c. Types of Leave

A leave of absence may be designated in one of the following ways:

- a leave without pay or leave with partial pay;
- a research leave;
- a sabbatical leave; or
- a family and medical leave.

i. Leave without Pay

A full-time faculty member who has completed at least one academic year of service may apply for a complete or partial leave of absence without pay by written request to the Committee on Rank and Tenure and the Dean of the Washington College of Law, describing in detail the purposes and duration of the leave and the activities in which the faculty member will be engaged. Leave without pay applications and extensions should be submitted by the established deadline and will be processed in the same manner as all faculty personnel actions. If a grant application is unresolved by the deadline for requesting a leave without pay, the Dean of Faculty will accept a statement from a faculty member of intent to apply for leave if the grant is forthcoming. The statement of intent must be filed by the announced deadline.

The University does not make contributions to employee benefit programs for a faculty member on leave without pay. However, the faculty member may continue group insurance benefits by paying the full cost. Retirement plan contributions cannot be made on a tax-deferred basis for a faculty member for whom no salary is being paid by the University. Human Resources notifies each faculty member planning a leave without pay of the options available. The University continues tuition privileges. Exceptions to this general policy must be clearly expressed in writing and approved by the Dean of Faculty.

A leave without pay is not included as part of pre-tenure service, unless written approval is obtained from the Dean of Faculty prior to the leave. A leave without pay may carry with it accrual of

sabbatical leave if the leave includes a regular workload of scholarly activities. The Dean of Faculty will grant or deny approval, or grant approval with specific conditions, based on his or her determination of the best interests of the University.

ii. Research Leave

Faculty members are sometimes presented with a significant scholarly development opportunity funded by a prestigious award or other notable source outside the University. In such cases, they may be eligible to apply for a research leave. The University strives to support faculty who earn these awards. If the outside funding does not fully recompense a faculty member's salary, he or she can negotiate with the Dean of the Washington College of Law and with the Dean of Faculty for additional compensation as long as the requested amount combined with the outside funding does not exceed the faculty member's salary. Application for research leave requires approval by the Committee on Rank and Tenure and the Dean of the Washington College of Law before submission to the Dean of Faculty for final action. The application must include information about the significance of the opportunity and its potential to advance the scholarly endeavors of the faculty member.

A research leave carries with it accrual of eligibility for tenure and promotions in rank. A faculty member on research leave will continue to accrue up to two years eligibility toward the next sabbatical leave. Exceptions must be approved in advance by the Dean of Faculty. During the period of a research leave, the University will continue its contribution to the faculty member's retirement program and provide other employee benefits, subject to contributions from the faculty member. Faculty on research leave and receiving University compensation during the leave must return to the University after the research leave for one year or as specified in advance by the Dean of Faculty at the time of the research leave request. If the faculty member does not return to the University for the specified period, he or she must reimburse the University for compensation and benefits paid during the leave period.

iii. Sabbatical Leave

A tenured faculty member who has accrued the equivalent of six years of a full-time workload is eligible for sabbatical leave. A faculty member may apply for sabbatical leave by submitting a written request to the Dean of the Washington College of Law and by completing the application for leave of absence. The application must outline in detail the scholarly program of work that the applicant agrees to follow. This program must be approved by the Committee on Rank and Tenure and the Dean of Faculty.

A sabbatical leave is granted for a period of one or two regular semesters or summer semesters, as appropriate for faculty who have full-time responsibilities in the summer. Faculty members will be paid their full budgeted salary during a sabbatical leave of one academic session or one-half of the budgeted salary during a sabbatical leave of two semesters. While on sabbatical leave, faculty members accrue time toward promotion. Sabbatical leave is not granted for the purpose of taking remunerative employment of any sort, without specific justification of such employment as a research-related

endeavor and approval in advance of the leave by the Committee on Rank and Tenure, the Dean of the Washington College of Law, and the Dean of Faculty.

That a faculty member has fulfilled the stated requirements for a sabbatical leave or that the applicant is strongly supported does not guarantee that the leave can be scheduled at the time preferred by the applicant. The needs of the University as well as budgetary and administrative considerations are important factors in the final determination.

A sabbatical leave cannot be extended beyond the period for which it was originally granted. A faculty member on sabbatical leave who wishes to extend the leave may, however, apply for leave without pay. If that is granted, the faculty member will be subject to all conditions governing such leaves.

Faculty members who accept a grant of sabbatical leave are obligated not only to pursue the scholarly program for which the sabbatical was granted but also to return to a full-time workload at the University for at least one academic year following the sabbatical, unless the University agrees in writing to other arrangements. If the faculty member does not return to the University for the specified period, he or she must reimburse the University for compensation and benefits paid during the leave period.

Faculty members must submit a sabbatical leave report to the Committee on Rank and Tenure, the Dean of the Washington College of Law, and the Dean of Faculty by the fall semester of the next academic year. The specific due date of the report is posted by the Dean of Faculty.

After a sabbatical leave, a faculty member is eligible to apply for another sabbatical after completing a subsequent period of six years on a full-time workload. Any faculty member who defers a sabbatical for the benefit of the University or to take advantage of a research opportunity is eligible to apply immediately after the reason for the deferral (administrative responsibilities, for example) has ended. In such cases, the faculty member does not lose any years and may count them as part of an accrual for a subsequent sabbatical. All such exceptions require approval in advance by the Dean of the Washington College of Law and by the Dean of Faculty. To define clearly the University's position and to protect the interests of faculty members who are asked to defer a sabbatical leave, the Dean of Faculty must approve and confirm agreements for deferral of a sabbatical leave for the convenience of the University. Requests should be directed to the Dean of Faculty with documentation, including a statement of the sabbatical leave project of the faculty member and a statement by the Dean of the Washington College of Law of the reason for deferral.

Regardless of the total number of years of service, faculty members who elect not to take sabbatical leaves are at no time entitled to other types of leaves or payments in lieu thereof.

iv. Family and Medical Leave

Please refer to the *Family and Medical Leave* and *Parental Leave* policies for details on this type of

leave.

23. University Faculty Retirement Information

a. Defined Contribution Retirement Plan

The University provides a defined contribution retirement plan for faculty and staff. The eligibility requirements and other information are outlined in the *Faculty and Staff Benefits Manual*, available from the Office of Human Resources. Retirees who meet years-in-service requirements will also be eligible for the Benefit Extension Plan set forth in the *Faculty and Staff Benefits Manual*.

b. Early Retirement Incentive

The University has adopted an early retirement incentive policy for tenured faculty who meet certain requirements. The University may offer a tenured faculty member terminal leave or phased retirement, which is an appointment with a reduced load with proportionally adjusted sabbatical leave and other benefits for a fixed period prior to retirement. The Dean of Faculty is the administrator of the retirement incentive and phased retirement programs.

Changes or modifications to the guidelines for the retirement incentive and phased retirement program are to be reviewed by the Faculty Senate's Committee on Academic Budget and Benefits and forwarded to the provost for consideration and action.

PROFESSIONAL STANDARDS

24. Professional Guidelines

a. In General

This section provides guidance to faculty regarding extramural activities that may raise questions about conflict of interest or conflict of commitment. This policy is in addition to any other conflict of interest policies that are issued by the Office of Human Resources, the Dean of Faculty, the Vice Provost for Research, the Board of Trustees, or other relevant offices. The University and its faculty and employees must comply with all applicable federal and local laws regarding conflicts of interest or commitment. Therefore, to the extent that provisions between this policy and the law conflict, the legal requirements prevail. In the case of conflicting provisions within internal University policies, the faculty member must seek clarification from the Dean of the Washington College of Law or the Dean of Faculty.

The University expects faculty to perform their duties without unresolved conflicts of interest or conflicts of commitment. A conflict of interest exists when a person's external interests have the potential to influence inappropriately, or appear to influence inappropriately, the person's performance of his or her university responsibilities or otherwise have the potential to threaten harm to the University or to potentially undermine the trust on which the educational process and employment environment depend; or when the person, or his or her family member, receives improper personal benefit as a result of his or her position in the University. A conflict of commitment arises when a faculty member's outside activities interfere with the faculty member's primary commitment to the University. This policy provides specific guidance in areas that commonly arise in faculty members' performance of their responsibilities.

As a preliminary matter, the faculty member is responsible for disclosing actual and potential conflicts to the Dean of the Washington College of Law. If it is not clear whether the faculty member must disclose, the faculty member must err on the side of disclosure. It is the University's responsibility to determine if the disclosed interests could materially affect the faculty member's performance of university responsibilities or interfere with the faculty member's primary commitment to the University, and, if so in either case, to require the management, reduction, or elimination of the conflict. Failure to comply with the University's plan for managing the conflict, including corrective action, may result in disciplinary action.

b. Conflicts between Personal and Professional Relationships

All personnel and academic decisions must be made on their merits and uninfluenced by personal relationships that could be construed to create a conflict of interest. As a general principle, faculty members must not participate in the decision of any matter that may affect directly the appointment, reappointment, tenure, promotion, salary, or other employment status or other interest of a close relative or of someone with whom the faculty member has a personal relationship that can be construed to create a conflict of interest.

The University prohibits consensual sexual relationships between a faculty member and any student or individual for whom the faculty member has a professional or supervisory responsibility. In all such cases, it is incumbent upon the faculty member to disclose and to eliminate any conflict of interest that can potentially undermine the trust on which the educational process and employment environment depend.

c. Conflict of Commitment

Questions may occasionally arise about the extent of a faculty member's involvement in, or the appropriateness of, certain non-university activities as they relate to the faculty member's employment duties, including the obligation to act in the best interest of the University. Faculty members should avoid conflict of commitment from the intrusion of outside activities upon the academic functions of

teaching/primary responsibilities, scholarship/professional contributions, and service to the institution. This section, although not exhaustive, is meant to serve as a guideline for determining when such activities conflict with a full-time faculty member's responsibilities at the University. subsection e. describes conflict of commitment as it relates to part-time faculty.

i. Full-time Faculty Outside Appointments and Teaching

A tenure-line faculty member may not hold a tenure-line position on the faculty of another higher education institution. Exceptions to this policy will require the written approval of the provost, following recommendation of the Dean of the Washington College of Law.

Teaching courses for another college or university at any time requires advance written approval of the Dean of the Washington College of Law and the Dean of Faculty.

ii. Outside Consulting

The private and public sectors rely on faculties of universities for advice and guidance. This recognition of the contribution that institutions of higher education can make to the nonacademic world has provided many faculty members with the opportunity to use their knowledge and talents constructively and profitably and to strengthen their competence through a greater variety of professional experience.

The University permits a full-time faculty member to work on outside consulting, provided that such activity does not diminish the faculty member's total contribution to the University. In general, for full-time faculty, this consulting should be equivalent to not more than one day of a five-day work week. This privilege is not extended to research faculty members who are paid wholly from research grants or contracts.

Payments for such consulting are negotiated by the faculty member directly and do not involve the University. The University assumes no responsibility or liability for private professional services rendered by members of its faculty, and it is the faculty member's responsibility to make clear to any client that the work has no official connection with the University. When pursuing extramural commitments, faculty members may use their affiliation with the University solely for identification purposes.

The responsibility for adhering to the limit on outside consulting lies first with the individual faculty member. Before undertaking outside consulting, faculty members should resolve any questions and ambiguities, including time commitment and compensation associated with the activity, with the Dean of the Washington College of Law. Faculty members must submit to the Dean of the Washington College of Law an annual report listing the level of their consulting activities. In addition, every faculty member has an ongoing obligation to report activities that may raise questions about conflicts as

soon as such situations become known to the individual. So that the University may determine whether the principles set forth herein are being adhered to and to ensure that University and teaching unit workload responsibilities are met, the deans will forward all consulting reports to the Dean of Faculty. The University will protect itself from losses due to excessive consulting and will require faculty members to stop any consulting activity that is inconsistent with this policy.

iii. Activities That Are Not Considered Outside Consulting

Several kinds of faculty activity are generally not considered outside consulting. These are:

1. Scholarship/Professional Contributions

Scholarly and professional work or communications that further the faculty member's scholarly duty to the University, though frequently earning financial profit for a faculty member and for another party (e.g., a publisher), are generally not considered outside consulting.

2. Service to the Profession

Service to the profession that furthers the faculty member's workload obligation to the University is generally not considered outside consulting. Examples of such service to the profession include participation on or in national commissions and professional associations, governmental agencies and boards, granting agency peer group review panels, visiting committees or advisory groups to other universities, and analogous bodies. Unlike consulting, service to the profession advances a broad public purpose. Service to the profession does not, however, wholly satisfy a faculty member's service obligations to the Washington College of Law. Although an honorarium or equivalent sometimes is forthcoming, these service activities are not undertaken for personal financial gain. Therefore, such service to the profession generally does not fall within the definition of outside consulting.

d. Use of University Assets and Facilities

While it is understood that faculty members may be initially identified or contacted about outside work while at the University or through their University affiliation, actual consulting work that follows should be separate and apart from the University. In that spirit, the use of University assets and facilities for outside remunerative employment is prohibited, unless authorized by the Dean of the Washington College of Law and the Dean of Faculty. Prohibited uses of University facilities for outside work include, but are not limited to, use of physical facilities (e.g., a meeting room, office) and use of University assets or facilities beyond the occasional and incidental use of electronic mail, telephone, or computer. Any use of University letterhead or other materials that would imply that the work was part of the faculty member's University obligations and use of the University's trademarks or name are strictly prohibited.

e. Part-time Faculty Conflicts of Commitment

The University assumes no responsibility or liability for external employment or private professional services rendered by members of its part-time faculty, and it is the part-time faculty member's responsibility to make clear to any employer or client that the work has no official connection with the University. When pursuing extramural commitments, faculty members may use their affiliation with the University solely for identification purposes. Part-time faculty members may already be employed by outside parties or may be initially identified or contacted about outside work while at the University or through their University affiliation; all such work should be separate and apart from the University. In that spirit, the use of University facilities for outside remunerative employment is prohibited, unless authorized by the Dean of the Washington College of Law and the provost. Prohibited uses of University facilities for outside work include, but are not limited to, use of physical facilities (e.g., a meeting room, office) and anything more than occasional and incidental use of electronic mail, telephone, or computer. Any use of University letterhead or other materials that would imply that the work was part of the part-time faculty member's University obligations and use of the University's trademarks or name are strictly prohibited.

f. Conflicts of Interest

The policies in this section exclude conflicts of interest in the context of research. Guidelines and processes for review of potential conflicts and investigations of violations of such conflicts are subject to other regulations and are available from the Office of the Provost.

This section applies to all full-time and part-time faculty members. Faculty members must ensure that outside activities and interests do not conflict with responsibilities assigned them within the University.

In situations creating an appearance of or actual conflict of interest, the faculty member must disclose the conflict in writing to the Dean of the Washington College of Law, and the Dean of Faculty. The disclosure should include a full description of the situation and a self-assessment regarding whether there is a conflict. The Dean of Faculty should seek to assist the faculty member in managing the conflict before the faculty member undertakes the activity (if permitted).

25. Violations of Scholarly Integrity

University policy does not tolerate and affirmatively prohibits violations of scholarly integrity. Scholarly misconduct in creative, professional, and research activities includes, but is not limited to, fabrication, falsification, plagiarism, abuse of confidentiality, or dishonesty in publication or production; deliberate violation of the regulations set by federal, state, local, and University agencies; failure to report observed major offenses; retaliation against individuals who have reported major offenses; or other practices that seriously deviate from those commonly accepted within

the scholarly community for proposing, conducting, or reporting scholarly work. It does not include honest error or honest differences in the interpretations or judgments of data.

Scholarly misconduct will be investigated as outlined in *Disciplinary Actions, Investigations, and Formal Faculty Hearings* section 19 of this Manual. However, the investigation procedures may be modified as needed to conform to the recommended procedures developed by the Office of Research Integrity of the U.S. Department of Health and Human Services for investigating charges of violation of scholarly integrity.