

## **Standard 405. PROFESSIONAL ENVIRONMENT**

### **ALTERNATIVE B**

**(a) A law school shall establish and maintain conditions that are adequate to attract and retain a competent full-time faculty that will enable the law school to operate in compliance with the Standards and accomplish its mission.**

**(b) A law school shall adopt, publish and adhere to policies and procedures that provide protection for the academic freedom of all of its full-time and part-time faculty in exercising their teaching responsibilities, including those related to client representation in clinical programs, and in pursuing their research activities, governance responsibilities, and law school related public service activities.**

**(c) A law school shall adopt, publish and adhere to written policies and procedures for considering and making decisions regarding [appointments,] promotions, tenure awards, renewal of contracts or other forms of security of position, and terminations for all full-time faculty positions.**

**(d) A law school shall afford all full-time faculty members a form of security of position sufficient to ensure academic freedom and attraction and retention of a competent full-time faculty.**

**(e) A law school shall adopt, publish and adhere to policies and procedures that provide for the meaningful participation of all full-time faculty members in the governance of the school.**

#### ***Interpretation 405-1***

*A system of tenure earning rights can be an effective method of attracting and retaining a competent full-time faculty. For full-time faculty positions that do not include the possibility of a tenured appointment, the law school bears the burden of showing that it has established sufficient conditions to attract and retain competent faculty in those positions. In assessing whether the school has met that burden, the following should be considered: evidence of turnover in full-time faculty members; history of successful hiring of full-time faculty members; evidence of a system that permits full-time faculty members in those positions to be appointed with long-term; presumptively renewable contracts; evidence of full-time faculty members' ability to participate in governance of the law school; and evidence of other perquisites similar to tenured faculty, such as participation in faculty development and support programs.*

#### ***Interpretation 405-2***

*A system of tenure earning rights can be an effective method of protecting faculty members' academic freedom. For full-time faculty positions in the law school that do not carry traditional tenure, the law school bears the burden of establishing that it provides sufficient protection for academic freedom. The law school's written policy with respect to the protection of the academic freedom of its full-time faculty members should provide procedures to ensure that its policy is followed, including rules that prohibit the non-renewal, denial of promotion, or loss of a faculty position unless a representative group of law faculty agree that the determination is not a violation of academic freedom and that offer the affected faculty member the opportunity to present any claims to the faculty making that determination. The law school should also have*

*written and announced policies and procedures protecting the academic freedom of part-time faculty members, as appropriate for their positions. A school may meet its burden by presenting evidence of its, or its university's, explicit acceptance of the academic freedom protections articulated in the 1940 AAUP Statement of Principles on Academic Freedom and Tenure and its 1970 Interpretive Comments.*

***Interpretation 405-3***

*This Standard does not preclude the use of short-term contracts for a limited number of fixed term appointments, so long as they are not utilized as the predominant method for staffing a particular program or teaching methodology within the law school nor does it preclude a law school from offering fellowship or visiting assistant professor programs designed to produce candidates for full-time teaching by offering individuals supervised teaching experiences of limited duration.*

***Interpretation 405-4***

*Meaningful participation in law school governance minimally includes participation and voting in decisions affecting the mission and direction of the law school, and academic matters such as curriculum, academic standards, and methods of instruction. The law school shall have a written policy on full-time faculty participation in appointment, renewal, promotion, and grant of tenure or presumptively renewable contract status of members of the faculty.*

## **Standard 405. PROFESSIONAL ENVIRONMENT**

### **ALTERNATIVE D**

**(a) A law school shall establish and maintain conditions that are adequate to attract and retain a competent full-time faculty that will enable the law school to operate in compliance with the Standards and accomplish its mission.**

**(b) A law school shall adopt, publish and adhere to policies and procedures that provide protection for the academic freedom of all of its full-time and part-time faculty in exercising their teaching responsibilities, including those related to client representation in clinical programs, and in pursuing their research activities, governance responsibilities, and law school related public service activities.**

**(c) A law school shall adopt, publish and adhere to policies and procedures that provide for the meaningful participation of all full-time faculty members in the governance of the school.**

**(d) A law school shall adopt, publish and adhere to written policies and procedures for retention, promotion, and termination decisions for all full-time faculty positions.**

#### ***Interpretation 405-1***

*A system of tenure earning rights, while not required, can be an effective method of attracting and retaining a competent full time faculty. For full-time faculty positions that do not include the possibility of a tenured appointment, the law school bears the burden of showing that it has established sufficient conditions to attract and retain competent faculty in those positions. In assessing whether the school has met that burden, the following should be considered: evidence of turnover in full time faculty members, history of successful hiring of full time faculty members, evidence of a system that permits full time faculty members in those positions to be appointed with long-term, presumptively renewable contracts, evidence of full-time faculty members ability to participate in governance of the law school, and evidence of other perquisites similar to tenured faculty, such as participation in faculty development and support programs.*

#### ***Interpretation 405-2***

*A system of tenure earning rights, while not required, can be an effective method of protecting faculty members' academic freedom. For full-time faculty positions in the law school that do not carry traditional tenure, the law school bears the burden of establishing that it provides sufficient protection for academic freedom. A school may meet its burden by presenting evidence of its, or its university's, explicit acceptance of the protections articulated in the 1940 AAUP Statement of Principles on Academic Freedom and Tenure and its 1970 Interpretive Comments and an established procedure involving a representative group of faculty to review the performance of those faculty for appointment, renewal of contracts of appointment, and termination that effectively protects academic freedom involving the faculty, or a subset thereof.*

#### ***Interpretation 405-3***

*The law school's written policy with respect to the protection of the academic freedom of its full time faculty members should provide procedures to ensure that its policy is followed, including rules that prohibit the non-renewal, denial of promotion, or loss of a faculty position unless a representative group of law faculty agree that the determination is not a violation of academic*

*freedom and that offer the affected faculty member the opportunity to present any claims to the faculty making that determination.*

***Interpretation 405-4***

*Meaningful participation in law school governance minimally includes participation and voting in decisions affecting the mission and direction of the law school, and academic matters such as curriculum, academic standards, and methods of instruction. The law school shall have a written policy on full-time faculty participation in appointment, renewal, promotion, and grant of tenure or presumptively renewable contract status of members of the faculty.*