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**UC HASTINGS COLLEGE OF THE LAW  
FACULTY RULES AND PROCEDURES  
2017-2018**

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## **ARTICLES OF ORGANIZATION OF THE FACULTY**

### **PART I**

#### **Section I. PURPOSE**

In order to provide the organization necessary for the discharge of academic and planning responsibilities, the faculty of the college enacts these Articles of Organization.

#### **Section II. CHARTER POWERS**

These articles are subject to the statutory powers granted to the board of directors. The faculty powers described here are those inherent in the faculty and those delegated to the faculty by the board of directors of the college.

#### **Section III. COMPOSITION**

- A. The faculty of the college consists of persons who are appointed to the following ranks: distinguished professors, professors, visiting professors, associate professors, assistant professors, long-term contract faculty, adjunct professors, lecturers, instructors and professors emeriti, including active Sullivan professors.
- B. As used in these articles, the term "regular faculty member" means tenured and tenure track faculty. The term "In-House Clinic faculty" means tenured and tenure track members of the faculty appointed to teach in the In-House Clinics created after July 1, 1991. The term "long-term contract faculty" means those full-time members of the faculty who meet the requirements set out in the Procedures and Standards for Decisions on Faculty Appointments and Academic Rank and Tenure, Section III(A)(4). The term "active Sullivan professor" means a retired, formerly-tenured, regular or In-House Clinical faculty member or long-term contract faculty member who retired with ABA Standard 405(c) tenure-like status, who has been recalled for short-term, part-time teaching or service duties and who is serving on a faculty committee.
- C. Only regular, In-House Clinic and long-term contract faculty members shall have the right to vote, though, during the academic years that they serve on faculty committees, active Sullivan professors may vote on matters excluding appointments, rank and tenure, and Faculty Rules. Members of the regular faculty and the In-House Clinic faculty without tenure shall be subject to limitations on the right to vote in personnel meetings as specified in Part III of these Articles. Long-term contract

faculty members shall be subject to limitations on the right to vote as specified in these Articles.

#### **Section IV. APPLICABLE LAW**

The faculty and its committees shall attempt to conform with any applicable laws and regulations, the accreditation policies of the American Bar Association, and the policies of the Association of American Law Schools, including the policies of the AALS on academic freedom and tenure and the policies on notice of termination of nontenured employment.

#### **Section V. TENURE**

- A. The faculty shall make provisions for the granting of tenure to new faculty members, without infringing any agreement or understanding concerning tenure for faculty members already appointed.
- B. Members of the In-House Clinic faculty shall have the opportunity to obtain a status called "clinical tenure." Clinical tenure shall be subject to all the same limitations of tenure for the regular faculty and, in addition, clinical tenure shall continue only as long as adequate funding remains available.
- C. Tenure and clinical tenure shall be granted in accordance with the Procedures and Standards for Decisions on Faculty Appointments and Academic Rank and Tenure.

#### **Section VI. MEETING SCHEDULE**

Meetings shall be held on a periodic basis, at times when the college is in session. Special meetings may be called by the Dean any time the college is in session. The Dean shall call a special meeting on the written, signed request of three (3) or more members of the faculty.

#### **Section VII. AMENDMENT AND REPEAL**

A quorum for a faculty meeting to consider a proposed amendment or amendments to the articles shall consist of a majority of the regular, In-House Clinic and long-term contract faculty members who are teaching courses at the College in that semester.

At a faculty meeting at which such a quorum is present, any section may be amended or repealed by the vote of at least two-thirds (2/3) of the regular, In-House Clinic and long-

term contract faculty members present, provided that notice of the proposed amendment or repeal shall have been given in writing at least one (1) week in advance of the meeting at which the amendment or repeal is to be considered. Any such votes shall be by secret written ballot.

Active Sullivan professors and long-term contract faculty members shall not be considered for purposes of a quorum or be permitted to vote on Article amendments relating to regular and In-House Clinic Faculty Appointments, and Rank and Tenure matters.

## **PART II**

### **COMMITTEES**

#### **Section I.**

The law school faculty committees will consist of:

- A. Standing committees and
- B. Special committees.

#### **Section II.**

Except for the Executive Committee, the chair and members of each committee shall be named by the Academic Dean after consultation with the Dean and the Executive Committee. Faculty appointments to all standing committees for the next academic year shall be made before on or within two weeks of the first day after the end of the examination period for the second semester.

#### **Section III.**

The chair of each faculty committee shall be entitled to vote. "Ex officio" members of committees do not vote.

#### **Section IV.**

Special faculty committees may be appointed from time to time by the Dean or by the faculty to consider matters either not within the jurisdiction of any standing committee or which cannot be accomplished as part of the regular business of a standing committee.

#### **Section V.**

In addition to exercising the specific powers and functions assigned to it by these articles, each standing committee shall give continuing attention to the general subject matter entrusted to it, and shall from time to time make such recommendations for changes in those areas as it may deem desirable.

The responsibilities of each committee described are intended to be primary responsibilities. The listing is not intended to preclude interest of one committee in problems which are also within areas of concern of other committees. However, before recommending faculty action on a proposal which concerns more than one committee, the proposal shall be submitted to other committees concerned with the proposal. All such committees may then advise the faculty before it takes final action on the proposal.

#### **Section VI.**

Newly appointed committees shall take office upon being named by the Academic Dean on or within two weeks of on the first day after the end of the examination period in the second (2nd) semester. Prior-year committees remain in office until the newly appointed committees take office.

#### **Section VII.**

Faculty membership on committees shall be as set forth in these articles. Student representation and rights of participation on committees shall be as set forth in the "Membership" statement concerning the particular committee.

#### **Section VIII.**

**A.** The standing committees of the college are:

1. Academic Standards and Policy
2. Admissions Policy and Scholarships
3. Admissions Process and LEOP Eligibility
4. Curriculum
5. Disqualified Students
6. Executive
7. Faculty Appointments
8. Global Programs
9. Placements and Clerkships
10. Rank and Tenure
11. Educational Effectiveness

**B. Academic Standards & Policy Committee**

1. Membership: Three (3) to five (5) faculty members, at the discretion of the Academic Dean and after consultation with the Executive Committee. Two (2) student members; one (1) from ASUCH, the other from the student body at large. One (1) alternate student member from the student body at large.
2. Responsibilities: This committee shall make recommendations to the faculty and administration concerning academic standards of the college including, but not limited to:
  - a. Policies and criteria for continuance in and graduation from the college;
  - b. Policies regarding probation and dismissal of students for academic reasons;
  - c. Policies that pertain to the scholarly publications and the moot court program.

**C. Admissions Policy and Scholarships Committee**

1. Membership: Three faculty members, two students, the Assistant Dean of Admissions and Financial Aid, the Director of Admissions, and the Director of LEOP. The Academic Dean shall appoint the faculty members of the Admissions Policy and Scholarships Committee after consultation with the Executive Committee and shall appoint the student members following consultation with the Director of LEOP and the Associated Students of the University of California, Hastings College of the Law (“ASUCH”).
2. Responsibilities:
  - a. This committee shall meet and make recommendations to the faculty and administration concerning all issues relating to admissions policy and process within faculty jurisdiction. Recommendations approved during the fall semester shall take effect in the following spring semester for admission to the next entering class. Recommendations approved during the spring semester shall not take effect until the following academic year, unless the faculty votes by a two-third (2/3) majority to allow them

to take effect immediately.

- b. This committee shall make recommendations throughout the year to the faculty concerning policies and criteria for the granting of scholarships, loans, grants in aid, or other forms of financial aid to students.
- c. The Admissions Policy and Scholarships Committee has general supervisory jurisdiction over admissions and financial aid, scholarships, and the administration of the admissions processes set forth in the Admissions Policy Statement. The Committee shall have authority to adopt guidelines and criteria governing the admissions process that are consistent with the Admissions Policy Statement.
- d. During the academic year, the Assistant Dean of Admissions and financial Aid shall report at least once each month to the Admissions Policy and Scholarship Committee. The Committee shall have authority to define the content of these reports and to request any information from the Assistant Dean that is relevant to the Committee's supervisory jurisdiction.
- c. The committee or a subcommittee thereof may select individual scholarship recipients, consistent with the intentions of the donors and the policies adopted by the faculty. However, the committee shall not make decisions on individual applications for financial aid or placement.

**D. Legal Education Opportunity Program (“LEOP”) Admissions Committee**

- 1. **Membership:** The LEOP Admissions Committee shall be comprised of the Director of LEOP, three faculty members, and two students who are participants in LEOP, and two student “alternates” who are participants in LEOP. In evaluating applicants' eligibility for admission and making recommendations for admission, no more than one student member or alternate can vote on any given LEOP application. The Academic Dean shall appoint the faculty members of the LEOP Admissions Committee after consultation with the Executive Committee and shall appoint the student members and alternates following consultation with the Director of LEOP and ASUCH.

2. Responsibilities: The LEOP Admissions Committee is responsible for evaluating applicants' eligibility for admission under the LEOP admissions process set forth in the Admissions' Policy Statement and for making recommendations of admission to the Assistant Dean of Admissions and Financial Aid.

**E. Global Programs Committee**

1. Membership: The Associate Dean for Global Programs, two (2) other faculty members; the contract faculty member (if any) with Global Programs advising responsibilities (ex officio); the Assistant Dean with responsibility for LL.M. admissions (ex-officio); and up to two (2) student members selected by ASUCH. The Associate Dean for Global Programs will serve as Chair of the committee.
2. Responsibilities:
  - a. Administration of the Masters of Law in U.S. Legal Studies Program ("LL.M Program")
    - i. The committee has general supervisory jurisdiction over LL.M. Program admissions, scholarships, academic requirements and regulations, student advising, and administration. The committee shall have authority to adopt guidelines, criteria, and standards on the matters above.
    - ii. During the academic year, the Assistant Dean with primary responsibility for LL.M. Program admissions shall report to the committee at least twice a semester. The committee shall have authority to define the content of these reports and to request any information from the Assistant Dean that is relevant to the committee's supervisory jurisdiction.
    - iii. The committee or a subcommittee thereof shall select recipients for the Thomas Franck Merit Scholarship consistent with the intentions of the donor and policies adopted by the faculty (if any). However, the committee shall not make decisions on individual applications for other scholarships or tuition discounts.
  - b. The committee shall establish policies and select students for all Foreign Exchange Programs and Study Abroad Opportunities;

provided, however that the student members of the committee shall not participate in the selection process. A “Foreign Exchange Program” is one in which each student pays tuition to her home institution. A “Study Abroad Opportunity” is one in which each student pays tuition directly to the foreign institution. The committee shall select students for such programs based on academic performance, the student’s stated academic and career objectives, prior experience related to the subject of study, bar passage prospects, and (at the committee’s option) an interview.

- c. The committee shall establish policies and selection criteria and select students for all International Internship Stipend awards; provided, however, that the student members of the committee shall not participate in the selection process. An “International Internship Stipend” is a stipend provided by the college to defray travel and living costs for matriculated J.D. students working in overseas internships. The committee shall select students for such programs based on academic performance, the student’s stated academic and career objectives, prior experience related to the location or area of work, and (at the committee’s option) an interview.
- d. The committee shall establish policies and selection criteria for the Visiting Foreign Scholars Program and select Visiting Foreign Scholars. A “Visiting Foreign Scholar” is a legal scholar, practitioner, or member of the judiciary from a country other than the United States who spends up to a full academic year at the college working on an independent research project.
- e. The committee shall make recommendations to the Associate Dean for Global Programs and, when appropriate, the faculty, concerning:
  - i. Criteria for the establishment and review of Foreign Exchange Programs and Study Abroad Opportunities.
  - ii. The establishment of new Foreign Exchange Programs and Study Abroad Opportunities.
  - iii. The modification or termination of existing Foreign Exchange Programs and Study Abroad Opportunities, based on the committee’s regular, periodic review of such programs.

- iv. Other programs, exchanges, conferences, and activities that involve foreign law schools, practitioners, or visitors.

**F. Curriculum Committee**

- 1. Membership: Three (3) to five (5) faculty members, at the discretion of the Academic Dean after consultation with the Executive Committee. Two (2) student members, one (1) from ASUCH, the other from the student body at large. One (1) alternate student member from the student body at large.
- 2. Responsibilities:
  - a. This committee shall make recommendations to the faculty concerning:
    - (i) The establishment of any new course to be offered for credit, including responsibility for determining the number of credit hours to be awarded, content of the course, and method of presentation, etc. (e.g., seminar, class, practice training, etc.).
    - (ii) The modification of any current course whenever the proposed changes involve number of credit hours, substantial changes in scope or content, or method of presentation.
    - (iii) The temporary or permanent cancellation of any course offered for credit.
  - b. The following courses may be approved by the Curriculum Committee and the Academic Dean without faculty approval:
    - (i) One unit mini-courses.
    - (ii) Two unit seminars taught by regular faculty members.
    - (iii) The Academic Dean has the authority to offer a new course or seminar of no more than three units with the advice and consent of the Curriculum Committee to "round out" the teaching schedule of a visiting professor.

- c. Committee recommendations for faculty action shall be presented for faculty action not later than:
  - (i) The date of the last regularly scheduled faculty meeting in the spring semester, for any course to be taught in the fall semester of the next academic year, or
  - (ii) The midpoint of the fall semester, for any course to be taught in the following spring semester.
- d. Assignment of teachers to courses shall be the prerogative of the Dean.

**G. Committee on Disqualified Students**

- 1. Membership: This committee is comprised of the Academic Dean and two (2) faculty members.
- 2. Responsibilities:
  - a. The Committee on Disqualified Students is empowered to take final action on all petitions for readmission made by students who are disqualified by reason of inadequate academic performance. The faculty will consider such petitions only in cases in which the Committee on Disqualified Students decides to seek faculty advice (which, it is expected, the committee will do only very rarely in highly exceptional cases). Petitioners shall have no right to seek faculty review of action taken by the Committee on Disqualified Students.
  - b. In considering petitions for readmissions, the committee on Disqualified Students shall have the power, acting in accordance with faculty guidelines,<sup>1</sup>
    - (1) to readmit with or without condition or
    - (2) to deny readmission

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<sup>1</sup> Note: Guidelines for all cases were adopted by the faculty May 6, 1977 and amended May 7, 1982 and April 26, 2002. [See Appendix A.]

## H. Executive Committee

1. Membership: Five (5) members, including the chair.
2. Election:
  - a. shall be elected by the regular, In-House Clinic, and long-term contract faculty at a March or April faculty meeting. The chair shall first be elected from among the members of regular and In-House Clinic faculty who hold tenure or clinical tenure. The remainder of the committee shall then be elected from among the members of the regular, In-House Clinic, and long-term contract faculty. No members of the committee shall serve two successive terms except by election to the chair. A member who serves a second successive term on the committee shall not again be eligible for election to the committee for two (2) years.
  - b. Nominations for election to the committee and as chair shall be made from the floor at a faculty meeting preceding the meeting at which the election will take place. Additional nominations may be made from the floor at the election meeting. Voting shall be by secret written ballot.
3. Term: The committee shall take office on the eighth (8<sup>th</sup>) day after its election.
4. Responsibilities and Powers:
  - a. The committee is empowered to represent the faculty:
    - (i) on the interpretation and proper implementation of prior faculty action;
    - (ii) in an emergency when there is no reasonable opportunity to call a faculty meeting;
    - (iii) during school holidays;

Provided however:

  - (A) a faculty meeting can always be called in accordance with these articles;
  - (B) all action by the committee shall be reported to the faculty by the committee chair at the faculty's next meeting;

- (C) all decisions made by the Executive Committee shall be binding in the particular case, but may be reviewed by the faculty for prospective affirmance, modification, or change.
- b. The committee is empowered to:
  - (i) represent and make recommendations to the faculty on the interpretation of its Articles of Organization and other matters related to the faculty's role in college governance; and
  - (ii) consult with the Dean, the Academic Dean and the Chief Financial Officer at least semi-annually on the formulation of budget policy and the administration of the state and non-state budgets of the College and to report periodically on these consultations to the Faculty; and
  - (iii) perform such other functions as may from time to time be delegated by the faculty.
- c. The committee shall be available to the Dean and the Academic Dean to provide advice on any matter on which such advice may be requested.
- d. The committee shall be consulted by the Academic Dean concerning his or her recommendations for appointment of the members and chairs of all other faculty committees, standing and special.
- e. The committee, after consultation with the faculty, is empowered to select the faculty representatives to search committees formed because of a vacancy in the Office of the Dean or the Academic Dean and to review committees formed because of an incumbent Dean or Academic Dean is being considered for reappointment.

## **I. Faculty Appointments Committee**

1. Membership: Three (3) to five (5) members of the regular or In-House Clinic faculty, at the discretion of the Academic Dean after consultation with the Executive Committee. Members shall serve two (2) year terms. Members may not serve consecutive terms.

2. Responsibilities:

- a. This committee shall make recommendations to the regular and In-House faculty concerning the appointment of persons to every faculty position, and to any other position insofar as that position involves teaching responsibilities, except adjunct faculty members shall be appointed in the following manner. The Academic Dean shall submit to this committee the names of potential members of the adjunct faculty. In regard to adjunct faculty, the committee will have the power to advise only. In regard to long-term contract faculty, the procedure shall be as described in Part III(B)(1).
- b. The committee shall use its best efforts, including consultation with administration, other faculty members, students or alumni, where appropriate, to find the best qualified persons for teaching positions.
- c. When for reasons caused by emergencies of any sort, it becomes necessary to fill a vacant teaching position, the Dean, after consultation with the chair of this committee insofar as is feasible, shall have the power to employ persons for periods up to one (1) academic year without formal action of this committee or of the faculty.

**J. Placement and Clerkships Committee**

1. Membership: Three (3) faculty members. Members shall serve three (3) year terms, to the extent possible.
2. Responsibilities:
  - a. This committee shall make recommendations throughout the year to the faculty concerning policies involving placement of graduates of the college. Although the administration shall have primary responsibility for placement programs, the faculty may make policy recommendations with respect to the placement process.
  - b. This committee shall serve as the faculty liaison and provide other assistance to the Career Services Office, as it shall see fit and appropriate.

- c. The committee shall serve as a general resource for students seeking judicial clerkships after graduation. It will attempt to coordinate information on available clerkships and deadlines for application for the students and will advise and assist when possible those seeking clerkships.

**K. Rank and Tenure Committee**

1. Membership: Three (3) to seven (7) members of the tenured regular or In-House Clinic faculty, at the discretion of the Academic Dean after consultation with the Executive Committee. Members shall serve two (2) year terms. Members may not serve consecutive terms.
2. Responsibilities:
  - a. After conducting the continuing review of the performance of the tenure track members of the faculty, this committee shall make recommendations to the faculty, favorable or unfavorable, relative to promotion to the rank of professor and the grant of tenure or clinical tenure. This committee shall also make recommendations to the Dean regarding promotion to the rank of associate professor.
  - b. At least once in each academic year, the chair of the committee, the Dean, and the Academic Dean shall discuss the status and content of the performance file with each regular or In-House Clinic tenure track faculty member.

**L. Educational Effectiveness Committee**

1. Membership: This committee is comprised of three (3) to six (6) members of the faculty, the Academic Dean (ex officio), and the primary staff person responsible for assessment and accreditation (ex officio). Additional staff with responsibility for assessment may also serve on the committee ex officio in the discretion of the Academic Dean. Committee service terms are presumptively two years.
2. Responsibilities

In coordination with the Academic Dean, this committee is responsible for program assessment, including:

  - a. Guiding the development of indicators of evidence of educational

effectiveness across academic and co-curricular programs at the College;

- b. Facilitating the establishment of a culture of continuous assessment leading to evidence-based decision-making;
- c. Making evidence-based recommendations for change in institutional structures and processes;
- d. Supporting accreditation efforts; and
- e. Reviewing the effectiveness of adjunct faculty, and, at the direction of the Academic Dean, lecturers or visitors.

**PROCEDURES AND STANDARDS FOR DECISIONS  
ON FACULTY APPOINTMENTS AND  
ACADEMIC RANK AND TENURE**

These procedures and standards were approved by the faculty on February 3, 1978, and subsequently by the board of directors. Included are modifications and interpretations made by the cited faculty action through December 6, 2017.

**I. Academic Staff**

(A) Academic Ranks

- 1) Distinguished Faculty: This is a senior tenured position of regular faculty with a national reputation and substantial experience in legal education. These appointments, whether they are of internal or external candidates, are subject to approval by the faculty and the Board of Directors.
- 2) Regular Faculty: A second (2<sup>nd</sup>) category of full-time faculty members includes a number of teachers who hold the rank of assistant professor, associate professor, or professor.
- 3) In-House Clinic Faculty: A third (3<sup>rd</sup>) category of full time faculty members includes those who teach in the In-House Clinics created after July 1, 1991. In-House Clinic Faculty hold rank in a system that is parallel to that of the Regular Faculty: assistant professor, associate professor, and professor. Members of the In-House Clinic Faculty are not able to leave teaching in the In-House Clinic in order to teach in the rest of the curriculum, absent independent appointment to the Regular Faculty.
- 4) Long-Term Contract Faculty: A fourth (4<sup>th</sup>) category of full time faculty members includes clinical and professional skills instructors who are employed under long-term contracts, which shall begin with contracts of terms of at least three (3) years and which shall be of a term of at least seven (7) years by the third (3<sup>rd</sup>) contract. This does not include clinical or professional skills instructors who are hired on a temporary basis with no expectation of a contract term longer than three (3) years.

- 5) Lecturer: A 5<sup>th</sup> category includes faculty members who are hired by the Academic Dean with the approval of the Dean after advice and consent from the Appointments Committee. The term of the appointment shall be from one (1) to three (3) years and may be renewed. Lecturer appointments do not carry tenure or any expectation of continued employment beyond the terms of the individual contract.
- 6) Active Sullivan Professors: Active Sullivan professors are retired, tenured, regular or In-House Clinical faculty members or long-term contract faculty members who retired with ABA Standard 405(c) tenure-like status who have been recalled, typically for a period of one semester or one academic year, to teach or perform service on a part-time basis, i.e., no more than 43 percent of their pre-retirement time per month. They have no expectation of employment beyond the term of the Sullivan contract that recalls them to limited service on a temporary basis. They are “active” for purposes of this definition because they are actively serving on one or more faculty committees.
- 7) Visiting Faculty: Members of other law school faculties who are invited to visit at Hastings College of the Law for a temporary period are designated visiting faculty in the appropriate rank.
- 8) Program Directors: Some members of the academic staff hold both academic and administrative appointments. These persons are directors of particular programs, such as director of clinical programs, director of legal writing and research, director of the moot court program and director of LEOP. These positions may carry, in addition, an academic title.
- 9) Adjunct Instructional Staff: To supplement the regular faculty and to enable the college to offer a wider variety of courses, qualified persons are employed on a semester or year basis to teach courses in areas of their particular expertise. Adjunct appointments do not carry tenure or any expectation of continued employment. Adjunct appointments made after January 1, 1978, may not be at a higher rank than adjunct assistant professor. An adjunct instructional staff member may provide no more academic units of instruction per academic year than specified under the Standing Orders of the Board of Directors.

- 10) Instructors: The legal writing and research program, a required course for the first (1<sup>st</sup>) year students, is taught by part-time instructors under the supervision of the director of legal writing and research. Their contracts are for a period not exceeding one (1) year, with no promise of continued employment.
- 11) Adjunct Clinical Instructors: The clinical program is taught, in part, by attorneys who supervise students in various field placements, under the supervision of full-time Hastings faculty. Those attorneys are appointed with the approval of their employers for a period not exceeding one (1) year with no promise of continued appointment.<sup>1</sup>
- 12) Scholars: A research institute may employ persons of demonstrated scholarly accomplishment with the title of resident scholars. If it is contemplated that such a scholar will be at Hastings for no longer than one (1) academic year, the person may be referred to as a Visiting scholar. @ Scholars are not officers of instruction unless they are appointed to a faculty position through the usual procedure.<sup>2</sup>
- 13) Research Fellows: A research institute may also employ research fellows. Research fellows are not officers of instruction unless they are appointed to a faculty position through the usual procedure.<sup>3</sup>

(B) Appointment

1) Faculty:

(a) Regular or In-House Faculty. All recommendations for membership on the regular or In-House Clinic faculty shall be referred in the first instance to the faculty Appointments Committee. This committee shall be composed of five (5) members of the regular and/or In-House Clinic faculty. Members

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<sup>1</sup> This category of adjunct faculty members was approved by the faculty on April 5, 1991.

<sup>2</sup> The category of Scholar was approved by the faculty on May 3, 1999.

<sup>3</sup> The category of Research Fellow was approved by the faculty on May 3, 1999.

shall serve two (2) year terms. Members may not serve consecutive terms.<sup>4</sup> This committee shall consider the qualifications of all candidates for faculty positions. Whenever appropriate, the committee shall solicit comments and evaluations from sources inside and outside the college. Nominees for selection to the faculty shall be judged by the criteria set forth in (C) below. A favorable recommendation requires two-thirds (2/3) vote of the committee. At least two (2) weeks in advance of the next scheduled faculty meeting at which a recommendation of the candidate for appointment is to be presented for approval, the committee shall circulate to the faculty relevant information regarding the candidate. At the faculty meeting so designated, the chair of the faculty Appointments Committee or a member designated for the purpose, shall present each candidate for appointment in the manner deemed appropriate by the committee. Members of the regular, In-House Clinic, and long-term contract faculty may participate in the discussion, and debate on the committee's recommendation. Long-term contract faculty engaged in clinical or experiential teaching may vote on the committee's recommendation for In-House Clinic faculty positions. Only members of the regular and In-House Clinic faculty may vote on the committee's recommendation for regular faculty positions. After a favorable faculty vote, the names of the approved candidates for appointment to the faculty shall be presented to the Dean and thereafter to the Board of Directors for its action. If disapproved by the Dean, reasons for such disapproval shall be submitted to the faculty and subsequently to the Board of Directors together with the report of the faculty committee recommending approval, the faculty action taken, and the opportunity given to the chairman of the faculty committee to appear personally before the Board of Directors stating the reasons for the faculty's affirmative action.

(b) Long-term contract Faculty: When the College plans to hire a faculty member in this category, the Academic Dean shall, with the advice of the Faculty Executive Committee, appoint a special committee. The special committee shall be composed of three (3) to five (5) faculty members, at least one of whom shall be a long-term contract faculty member. The special committee shall

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<sup>4</sup> As approved by the faculty on May 2, 1980.

identify and interview candidates. If the special committee decides to recommend an appointment, it shall forward its recommendation to the faculty for a vote. If the regular, In-House Clinic, and long-term contract faculty approves by a majority vote of those present, the faculty shall forward its recommendation to the Dean. In making its recommendation, the special committee shall consider the candidate's potential for teaching and modeling of excellent lawyering practice, contribution to the profession, public service, and contributions to the College community. If the candidate has produced scholarship or other writing, this work may also be considered in the appointment process. The writing can be writing on law, lawyering, legal education, legal institutions or procedures, practice-oriented materials, or briefs, policy recommendations, or other documents submitted in conjunction with legal, legislative, or administrative proceedings. In addition, "contribution to the profession" can include, but is not limited to, contributions to the methods and substance of clinical teaching, professional skills teaching, or legal education, as well as the provision of vital or novel services to clients or communities.

(c) Visiting Appointments: The Appointments Committee is authorized to negotiate through the Academic Dean the appointment of visiting faculty on a one (1) or two (2) semester basis if the committee receives no adverse comments on the names of the proposed visitors within a specified time after circulation of the name of the proposed visitor to the faculty.<sup>5</sup>

(d) Appointment of visiting faculty to regular faculty: recommendation for the appointment of visiting members of the faculty to the full-time faculty shall be made on the same basis as recommendations for similar appointment of persons who are not at the time at Hastings.<sup>6</sup> Further, the evaluation and recommendation of a visiting faculty member for a permanent tenured appointment is to be accomplished by the faculty Appointments Committee, not the Rank and Tenure Committee.<sup>7</sup>

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<sup>5</sup> As approved by faculty action on January 13, 1978, and October 5, 1979.

<sup>6</sup> Pursuant to a motion approved by the faculty on October 5, 1979.

<sup>7</sup> This jurisdiction was confirmed by the faculty on April 29, 1988, by approval of the March 29, 1988 memorandum attached as Appendix B.

In-House Clinic faculty appointments shall proceed in accordance with the immediately preceding paragraph in matters concerning the appointment of visitors to permanent In-House Clinic faculty.<sup>8</sup>

- 2) Program Directors: Program directors are appointed by the Board of Directors on recommendation of the Dean. Prior to the recommendation by the Dean, he shall circulate to the full-time faculty for comment the name of the person to be appointed. If a program director's appointment involves a recommendation for appointment to the regular or In-House Clinic faculty, the procedures in III(B)(1) shall apply.
- 3) Lecturers: Lecturers may be appointed by the Academic Dean with the approval of the Dean and with prior consultation and advice and consent from the Appointments Committee. Lecturers may be hired for renewable terms of periods from one (1) to three (3) years.
- 4) Active Sullivan Professors: Retired faculty may be recalled for limited service as active Sullivan professors by the Academic Dean with the approval of the Faculty Appointments Committee.
- 5) Adjunct Instructional Staff: The adjunct instructional staff is appointed each year by the Academic Dean with the approval of the Faculty Appointments Committee.
- 6) Instructors: Instructors in the legal writing and research program are appointed by the Academic Dean on the recommendation of the director of that program.
- 7) Scholars and Research Fellows: The faculty member in charge of the research institute may appoint scholars and research fellows, subject to the approval of the Dean and the Faculty Appointments Committee.<sup>9</sup>

(C) Criteria for Appointment, Norms for Promotion and the Award of Tenure - Regular Faculty

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<sup>8</sup> Pursuant to the decision of the faculty on April 29, 1991, creating the category of In-House Clinic Faculty with methods of appointment similar to the regular faculty.

<sup>9</sup> Approved by the faculty on May 3, 1999.

- 1) The College seeks the best qualified persons available for appointment to the faculty, generally seeking either nationally-recognized figures in legal academic or professional life or persons showing true promise of such achievement. It is recognized that wide configurations of strengths are to be found to fit this general qualification. Once a candidate is appointed at a lower rank, the norms for promotion in academic rank should be broad enough to cover the different purposes and needs of the college. In general, advancement in rank is based upon the recognition by the candidate's peers of his or her academic achievement, and upon their judgment that this achievement will continue. Length of service in present or past rank and merely adequate performance of regular duties are not sufficient reason for promotion. The rank of professor of law shall be held only by persons holding a tenured, clinical tenured, or distinguished appointment. The College recognizes three (3) general criteria for appointment, promotion, and the award of tenure: (1) teaching; (2) scholarship; and (3) service. In applying these criteria, teaching and scholarship are of equal weight and shall be given the highest priority.

The judgment whether the candidate meets these standards is left in the first instance to the respective committees involved: The committee on faculty appointments with respect to initial appointments, and the committee on academic rank and tenure with respect to the on-going evaluation of junior members of the regular faculty.

Teaching: Promise of effective teaching is an indispensable attribute for appointment to the Hastings faculty and demonstrated competence is indispensable for continuance. Under no circumstances will a tenure commitment be made unless there is clear, sustained demonstration of true ability and diligence in the teaching role. The committee on academic rank and tenure shall establish, with respect to each non-tenured regular faculty member, a program of yearly classroom visitations by distinguished, tenured, and clinical tenured faculty members and a mechanism for providing adequate feedback to the candidates involved.

In judging the effectiveness of a candidate's teaching, the committee and others engaged in the evaluation process, and the full eligible faculty in voting on a promotion or tenure proposal,

should consider such points as the following: the candidate's command of the subject; continuous growth in his or her field; ability to organize the material at hand and present it with force and logic; capacity to awaken in students an awareness of the relationship of the subject to other fields of knowledge; grasp of the general objectives of legal education; and the ability to arouse curiosity in beginning students and to stimulate advanced students to creative work. The evaluators should pay due attention to the variety of demands placed on professors by the types of teaching called for in various levels, and should judge the total performance of the candidate with proper reference to his or her assigned teaching and other responsibilities.

In presenting a candidate for promotion in rank or for conferral of tenure, the committee should clearly indicate the sources of evidence on which its appraisal is based and should include in every instance evaluation of the candidate solicited from students. Among significant types of teaching effectiveness that should be considered are: (a) opinions of the candidate's colleagues and others in the law teaching profession, particularly if such opinions are based upon class visitations, or attendance at public lectures before professional societies given by the candidate, and (b) opinions of students.

Scholarship for Promotion and Tenure for Regular Faculty:

The production of scholarship relevant to the law is an essential function of an excellent law school. The College expects its faculty to contribute to the advancement of knowledge and ideas by disseminating the result of scholarly work involving theory, doctrine and practice relevant to the law and the faculty member's fields of interest. In evaluating scholarship, a critical factor is whether the candidate's pre-tenure record is predictive of future scholarly productivity. Candidates for promotion and tenure thus must compile a record of accomplishment during their pre-tenure period at the College that demonstrates both the candidate's capacity and commitment to produce original and influential scholarship relevant to the law throughout the candidate's career. A candidate's entire scholarly record can be considered in determining whether the candidate has demonstrated both the capacity and commitment to produce original and influential scholarship throughout the candidate's career.

Works that count toward the minimum quantity requirement for promotion and tenure purposes, however, must not have been published prior to the start of the candidate's career as a tenure-track faculty member at a law school. An article is considered published if it has been accepted for publication, and a book is considered published if a completed manuscript has been accepted for publication.

To be promoted to associate professor, a candidate must submit at least one substantial scholarly work relevant to law that has been published and either one additional publication of narrower scope (such as a book review, comment or essay), or a draft of another substantial scholarly work. At a minimum, to be awarded tenure and promoted to full professor a candidate ordinarily must submit at least two substantial published scholarly works relevant to the law and one or more additional publications relevant to the law which may be of narrower scope (with the understanding that collectively these may include scholarly works previously submitted at the time of consideration for promotion to associate professor). A topic is relevant to the law if its subject matter concerns legal theory, legal doctrine, legal policy, legal history, legal practice, legal education or other issues of concern to legal academia and/or the profession of law. Relevance to more than one discipline does not detract from a work's relevance to the law. Rather, the interdisciplinary nature of a work may be considered in determining the work's originality, importance, or its satisfaction of other evaluative criteria set forth in this Section.

A substantial scholarly work typically will be an article of high quality in a recognized scholarly journal, or an equivalent contribution to a book, that addresses an important topic relevant to the law with creativity and analytical rigor. In addition to law reviews, interdisciplinary and/or peer-reviewed journals satisfy the requirement of a "recognized scholarly journal" if legal academics or academics in the relevant specialty regard the publication as a scholarly journal. A substantial scholarly work is one that is thoroughly researched and well written, has a central thesis, anticipates and addresses the major counter arguments likely to be raised against its thesis, and clearly makes a contribution to its field. In evaluating scholarship under this standard, the faculty recognizes that quality scholarship may take different forms and involve a range of methodologies. The length of a scholarly work

is not dispositive in determining whether it constitutes a substantial scholarly work. Rather, the determination of substantiality considers all of the factors set forth in this and preceding paragraphs. Among the types of publications that ordinarily will not be considered to qualify as a substantial scholarly work are unpublished teaching materials, CLE outlines, and briefs or other documents prepared in representing clients.

Co-authored works will be considered part of a candidate's rank and tenure file. With the aid of the candidate, and co-authors where appropriate, the Rank and Tenure Committee and the tenured faculty will evaluate the quality and scope of the candidate's contribution to the co-authored scholarly work.

Service: The faculty plays a vital role in the governance of the College and in the formulation of academic policy. In evaluating candidates for promotion and tenure, consideration should be given for their contributions to law school committees, as advisers to student organizations, and for participation in other College activities. Candidates also should be recognized for their contributions to legal education, the legal profession, and the broader community. Examples of service include participation in professional organizations, conferences and symposia, law reform projects, continuing legal education programs, service for governmental bodies, and public interest litigation.

2) Tenure Policy

After the expiration of a probationary period, and upon recommendation of the faculty and approval by the Board of Directors, members of the regular faculty should have permanent tenure, and their service should be terminated only for adequate cause.

3) Promotion to Associate Professor

- A. After a member of the regular faculty ("the candidate") has completed six (6) semesters of full-time teaching at the College at the rank of assistant professor, the Dean may promote the candidate to the rank of associate professor pursuant to the following procedures:

1. Before the end of the candidate's sixth (6<sup>th</sup>) semester of full-time teaching at the rank of assistant professor, the committee on rank and tenure shall submit a written report and recommend to the Dean whether the candidate should be promoted. In making its recommendation, the committee shall consider the candidate's teaching, scholarship and service.
2. Based on the committee's report and recommendation and his or her own independent evaluation, the Dean may: a) promote the candidate to associate professor, b) deny promotion and terminate the candidate's appointment; or c) defer the decision for up to two additional semesters. The Dean ordinarily shall not make a decision to terminate that is contrary to the recommendation of two-thirds (2/3) or more of the Committee on Rank and Tenure.
3. If the Dean decides to defer the promotion decision, he or she shall notify the candidate in writing of the reasons for such deferral and shall request the committee on rank and tenure to submit an additional report and recommendation before the end of the deferral period.
4. If promotion is denied, the Dean shall notify the candidate in writing and explain the reasons for the decision, and also notify the candidate that his or her appointment for the following year shall be a terminal appointment. Such notice shall be provided at least twelve (12) months prior to the effective date of the termination.
5. The determination of a candidate's years of full-time teaching shall be made after taking into account: (a) any years-in-service credit negotiated at the time of the candidate's initial appointment, and (b) the College's legal obligations and internal policies regarding active service/modified duties, and parental, disability, and other leaves of absence.

B. Retention Review: For Faculty Appointed at the Rank of Associate:

All faculty members whose initial appointment is at the rank of associate shall be subject to a retention review in the spring of their sixth (6<sup>th</sup>)

semester of full-time teaching following appointment, unless the faculty member's contract provides for fewer than five (5) years from the time of appointment to the time of consideration for tenure.

With the issue of retention, rather than promotion, as its purpose, the retention review should provide evaluation and termination procedures equivalent to those approved for promotion to the rank of associate as detailed in Section 3.A above.

- C. All recommendations, favorable or unfavorable, relative to the tenured rank of professor shall be made to the faculty by the Committee on Rank and Tenure after conducting the continuing review of the performance of the nontenured members of the regular faculty outlined in IIC(1). This committee shall be composed of five (5) members of the tenured regular, distinguished or In-House Clinic faculty. Members will serve two (2) year terms. Members may not serve consecutive terms.<sup>10</sup>
- D. At least once in each academic year, the chairman of the Committee on Rank and Tenure, the Dean, and the Academic Dean shall discuss the status and content of the performance file with each potentially tenured faculty member. A satisfactory annual evaluation or series of such evaluations shall not be construed as providing a guarantee of the ultimate award of tenure, which shall be awarded only after recommendation of the faculty as provided hereafter.

E. OMITTED

F. Tenure Recommendation and Review: General Procedures

A tenure-track regular faculty member ("the candidate") must have completed five (5) years of full-time teaching at the College to be awarded tenure and promoted to the rank of professor. Decisions on the award of tenure and promotion shall be made by the eligible voting faculty pursuant to the following procedures:

Early in the course of a tenure review, before faculty consideration of a case, the chairperson of the Rank and Tenure Committee shall notify the candidate of the impending review and in one or more conferences with the candidate make certain that the candidate is adequately informed about

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<sup>10</sup> As amended by the faculty on May 2, 1980.

the entire review process and is given the appropriate opportunity to ask questions, to supply pertinent information and evidence to be used in the review, and to suggest names of persons to be solicited for outside letters of evaluation.

During the course of the tenure review, the chairperson of the Committee on Rank and Tenure shall solicit outside letters of evaluation of the candidate's scholarship from qualified persons, including a reasonable number nominated by the candidate. The candidate may provide in writing to the chairperson names of persons who, in the view of the candidate, for reasons set forth, might not objectively evaluate the candidate's qualifications. Such a statement shall be included in the candidate's tenure file. Ordinarily, at least three (3) letters shall be obtained for each scholarly work for which reviews are sought; more letters may be solicited in the committee's discretion. The candidate's suggestions as to sources of letters shall not be binding on the committee. In order to provide candidates with timely feedback regarding the evaluation of their scholarly works, the Rank and Tenure Committee shall solicit reviews of each of those works as soon as possible after the work's publication.

Under normal circumstances, the final evaluation process leading to the grant of regular tenure shall be completed during the candidate's ninth (9<sup>th</sup>) semester of full-time teaching, unless the candidate has elected to defer such evaluation after stopping the tenure clock pursuant to the College's Policy for Childbearing and Related Leaves. Candidates shall be presented to the eligible voting faculty for consideration on or before December 15 (or May 15 if in the spring semester) of that semester.

If the faculty votes not to award tenure to a candidate, the Dean shall notify the candidate in writing that the candidate's appointment for the following year shall be a terminal appointment. Such notice shall be provided at least twelve (12) months prior to the effective date of the termination.

The determination of a candidate's years of full-time teaching shall be made after taking into account: (a) any years-in-service credit negotiated at the college at the time of the candidate's initial appointment, and (b) the College's legal obligations and internal policies regarding active service/modified duties, and parental, disability, and other leaves of absence.

- G. All candidates have access to the complete contents of their tenure file and faculty evaluations of scholarly works and classroom teaching.
- H. Voting for Appointment and Promotion to the Tenured Rank shall be governed by the following rules:
  - 1. A quorum for purposes of voting on appointments and promotion to the tenured rank shall be two-thirds (2/3) of those eligible to vote. Faculty members are eligible to attend and vote only as specifically provided below.
  - 2. Voting on all regular faculty tenure decisions shall be at a special meeting attended by tenured regular, distinguished and In-House Clinic members of the faculty.
  - 3. All voting shall be by secret written ballot.
  - 4. All initial regular and distinguished faculty appointments and promotions to the tenured rank shall require a two-thirds (2/3) vote of those present, eligible and voting.
  - 5. Only members of the regular, distinguished and In-House Clinic faculty shall be eligible to vote on initial appointments to the regular and distinguished faculty.
  - 6. Faculty on leave shall be eligible to vote on personnel matters if they are present to participate in the discussion at which the vote is taken.
- I. Agreements with individual faculty members respecting appointment, promotion and/or tenure entered into prior to the adoption of these provisions shall be unaffected by these rules.
- (D) Criteria for Appointment, Norms for Promotion and the Award of Tenure - In-House Clinical Faculty
  - 1) The College seeks the best qualified persons available for appointment to the faculty, generally seeking either nationally-recognized figures in legal academic or professional life or persons showing true promise of such achievement. It is recognized that wide configurations of strengths are to be found to fit this general

qualification. Once a candidate is appointed at a lower rank, the norms for promotion in academic rank should be broad enough to cover the different purposes and needs of the college. In general, advancement in rank is based upon the recognition by the candidate's peers of his or her academic achievement, and upon their judgment that this achievement will continue. Length of service in present or past rank and merely adequate performance of regular duties are not sufficient reason for promotion. The rank of professor of law shall be held only by persons holding a tenured, clinical tenured, or distinguished appointment. The College recognizes three (3) general criteria for appointment, promotion, and the award of tenure: (1) teaching; (2) scholarship; and (3) service. In applying these criteria, teaching and scholarship are of equal weight and shall be given the highest priority.

The judgment whether the candidate meets these standards is left in the first instance to the respective committees involved: The committee on faculty appointments with respect to initial appointments, and the committee on academic rank and tenure with respect to the on-going evaluation of junior members of the regular and In-House Clinic faculty.

Teaching: Promise of effective teaching is an indispensable attribute for appointment to the Hastings faculty and demonstrated competence is indispensable for continuance. Under no circumstances will a tenure commitment be made unless there is clear, sustained demonstration of true ability and diligence in the teaching role. The committee on academic rank and tenure shall establish, with respect to each non-tenured In-House Clinic faculty member, a program of yearly classroom visitations by distinguished, tenured, and clinical tenured faculty members and a mechanism for providing adequate feedback to the candidates involved.

In judging the effectiveness of a candidate's teaching, the committee and others engaged in the evaluation process, and the full eligible faculty in voting on a promotion, or clinical tenure proposal, should consider such points as the following: the candidate's command of the subject; continuous growth in his or her field; ability to organize the material at hand and present it with force and logic; capacity to awaken in students an awareness of the relationship of the subject to other fields of knowledge; grasp of

the general objectives of legal education; and the ability to arouse curiosity in beginning students and to stimulate advanced students to creative work. The evaluators should pay due attention to the variety of demands placed on professors by the types of teaching called for in various levels, and should judge the total performance of the candidate with proper reference to his or her assigned teaching and other responsibilities.

In presenting a candidate for promotion in rank or for conferral of clinical tenure, the committee should clearly indicate the sources of evidence on which its appraisal is based and should include in every instance evaluation of the candidate solicited from students. Among significant types of teaching effectiveness that should be considered are: (a) opinions of the candidate's colleagues and others in the law teaching profession, particularly if such opinions are based upon class visitations, or attendance at public lectures before professional societies given by the candidate, and (b) opinions of students.

Scholarship for Promotion and Tenure for In-House Clinic Faculty:

The production of scholarship relevant to the law is an essential function of an excellent law school. The College expects its faculty to contribute to the advancement of knowledge and ideas by disseminating the result of scholarly work involving theory, doctrine and practice relevant to the law and the faculty member's fields of interest. In evaluating scholarship, a critical factor is whether the candidate's pre-tenure record is predictive of future scholarly productivity. Candidates for promotion and tenure thus must compile a record of accomplishment during their pre-tenure period at the College that demonstrates both the candidate's capacity and commitment to produce original and influential scholarship relevant to the law throughout the candidate's career. A candidate's entire scholarly record can be considered in determining whether the candidate has demonstrated both the capacity and commitment to produce original and influential scholarship throughout the candidate's career.

Works that count toward the minimum quantity requirement for promotion and tenure purposes, however, must not have been published prior to the start of the candidate's career as a tenure-track faculty member at a law school. An article is considered published if it has been accepted for publication, and a book is

considered published if a completed manuscript has been accepted for publication.

To be promoted to associate professor as an In-House Clinic faculty member, a candidate must submit at least one substantial scholarly work that has been published. At a minimum, to be awarded tenure and promoted to full professor, a candidate ordinarily must submit at least two (2) substantial published scholarly works and one or more additional publications which may be of narrower scope (such as a book review, comment or essay) (with the understanding that collectively these may include scholarly works previously submitted at the time of consideration for promotion to associate professor).

A substantial scholarly work typically will be an article of high quality in a recognized scholarly journal, or an equivalent contribution to a book, that addresses an important topic relevant to the law with creativity and analytical rigor. A substantial scholarly work is one that is thoroughly researched and well written, has a central thesis, anticipates and addresses the major counter arguments likely to be raised against its thesis, and clearly makes a contribution to its field. In evaluating scholarship under this standard, the faculty recognizes that quality scholarship may take different forms and involve a range of methodologies.

Among the types of publications that ordinarily will not be considered to qualify as a substantial scholarly work are unpublished teaching materials, CLE outlines, and briefs or other documents prepared in representing clients. Consistent with this standard, although unpublished teaching materials may not count as a substantial scholarly work, they may count toward clinical tenure as a work of narrower scope, like a book review or comment.

Co-authored works will be considered part of a candidate's rank and tenure file. With the aid of the candidate, and co-authors where appropriate, the Rank and Tenure Committee and the tenured faculty will evaluate the quality and scope of the candidate's contribution to the co-authored scholarly work.

Service: The faculty plays a vital role in the governance of the College and in the formulation of academic policy. In evaluating

candidates for promotion and tenure, consideration should be given for their contributions to law school committees, as advisers to student organizations, and for participation in other College activities. Candidates also should be recognized for their contributions to legal education, the legal profession, and the broader community. Examples of service include participation in professional organizations, conferences and symposia, law reform projects, continuing legal education programs, service for governmental bodies, and public interest litigation.

2) Tenure Policy

After the expiration of a probationary period, and upon recommendation of the faculty and approval by the board of directors, members of the In-House Clinic faculty should have permanent tenure as long as adequate funding remains available, and otherwise their service should be terminated only for adequate cause.

3) Promotion to Associate Professor as an In-House Clinic Faculty Member

A. After a member of the In-House Clinical faculty (“the candidate”) has completed six (6) semesters of full-time teaching at the College at the rank of assistant professor the Dean may promote the candidate to the rank of associate professor pursuant to the following procedures:

1. Before the end of the candidate’s sixth (6<sup>th</sup>) semester of full-time teaching at the rank of assistant professor, the Committee on Rank and Tenure shall submit a written report and recommend to the Dean whether the candidate should be promoted. In making its recommendation, the committee shall consider the candidate’s teaching, scholarship and service.
2. Based on the committee’s report and recommendation and his or her own independent evaluation, the Dean may: a) promote the candidate to associate professor, b) deny promotion and terminate the candidate’s appointment; or c) defer the decision for up to two additional semesters. The Dean ordinarily shall not make a decision to terminate that

is contrary to the recommendation of two-thirds (2/3) or more of the Committee on Rank and Tenure.

3. If the Dean decides to defer the promotion decision, he or she shall notify the candidate in writing of the reasons for such deferral and shall request the Committee on Rank and Tenure to submit an additional report and recommendation before the end of the deferral period.
4. If promotion is denied, the Dean shall notify the candidate in writing and explain the reasons for the decision, and also notify the candidate that his or her appointment for the following year shall be a terminal appointment. Such notice shall be provided at least twelve (12) months prior to the effective date of the termination.
5. The determination of a candidate's years of full-time teaching shall be made after taking into account: (a) any years-in-service credit negotiated at the time of the candidate's initial appointment, and (b) the College's legal obligations and internal policies regarding active service/modified duties, and parental, disability, and other leaves of absence

**B. Retention Review: For Faculty Appointed at the Rank of Associate**

All faculty members whose initial appointment is at the rank of associate shall be subject to a retention review in the spring of their sixth semester of full-time teaching following appointment, unless the faculty member's contract provides for fewer than five (5) years from the time of appointment to the time of consideration for tenure.

With the issue of retention, rather than promotion, as its purpose, the retention review should provide evaluation and termination procedures equivalent to those approved for promotion to the rank of associate as detailed in Section 3.A above.

**C. All recommendations, favorable or unfavorable, relative to the clinical tenured rank of professor shall be made to the faculty by the committee on rank and tenure after conducting the continuing review of the performance of the nontenured members of the In-**

House Clinic faculty outlined in III D (1). This committee shall be composed of five (5) members of the tenured regular, distinguished or In-House Clinic faculty. Members will serve two-year terms. Members may not serve consecutive terms.<sup>11</sup>

- D. At least once in each academic year, the chairman of the Committee on Rank and Tenure and the Academic Dean shall discuss the status and content of the performance file with each potentially clinical tenured faculty member. A satisfactory annual evaluation or series of such evaluations shall not be construed as providing a guarantee of the ultimate award of clinical tenure, which shall be awarded only after recommendation of the faculty as provided hereafter.
- E. OMITTED
- F. Tenure Recommendation and Review: General Procedures

A tenure-track clinical faculty member (“the candidate”) must have completed six (6) years of full-time teaching at the College to be awarded tenure and promoted to the rank of professor. Decisions on the award of tenure and promotion shall be made by the eligible voting faculty pursuant to the following procedures:

Early in the course of a tenure review, before faculty consideration of a case, the chairperson of the Rank and Tenure Committee shall notify the candidate of the impending review and in one or more conferences with the candidate make certain that the candidate is adequately informed about the entire review process and is given the appropriate opportunity to ask questions, to supply pertinent information and evidence to be used in the review, and to suggest names of persons to be solicited for outside letters of evaluation.

During the course of the tenure review, the chairperson of the Committee on Rank and Tenure shall solicit outside letters of evaluation of the candidate from qualified persons, including a reasonable number nominated by the candidate. The candidate may provide in writing to the chairperson names of persons who, in the view of the candidate, for reasons set forth, might not

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<sup>11</sup> As amended by the faculty on May 2, 1980.

objectively evaluate the candidate's qualifications. Such a statement shall be included in the candidate's tenure file. No less than a total of three (3) such letters shall be solicited; more letters may be solicited in the committee's discretion. The candidate's suggestions as to sources of letters shall not be binding on the committee.

Under normal circumstances, the final evaluation process leading to the grant of clinical tenure shall be completed during the candidate's eleventh semester of full-time teaching, unless the candidate has elected to defer such evaluation after stopping the tenure clock pursuant to the College's Policy for Childbearing and Related Leaves. Candidates shall be presented to the eligible voting faculty for consideration on or before December 15 (or May 15 if in the spring semester) of that semester.

If the faculty votes not to award tenure to a candidate, the Dean shall notify the candidate in writing that the candidate's appointment for the following year shall be a terminal appointment. Such notice shall be provided at least twelve (12) months prior to the effective date of the termination.

The determination of a candidate's years of full-time teaching shall be made after taking into account: (a) any years-in-service credit negotiated at the time of the candidate's initial appointment, and (b) the College's legal obligations and internal policies regarding active service/modified duties, and parental, disability, and other leaves of absence.

- G. All candidates have access to the complete contents of their tenure file and faculty evaluations of scholarly works and classroom teaching.
- H. Voting for Appointment and Promotion to the Clinical Tenured Rank shall be governed by the following rules:
  - 1. A quorum for purposes of voting on appointments and promotion to the tenured rank shall be two-thirds (2/3) of those eligible to vote. Faculty members are eligible to attend and vote only as specifically provided below.

2. Voting on all clinical tenure decisions shall be at a special meeting attended by tenured regular, distinguished, and In-House Clinic members of the faculty.
  3. All voting shall be by secret written ballot.
  4. All initial In-House clinic faculty appointments and promotions to the clinical tenured rank shall require a two-thirds (2/3) vote of those present, eligible and voting.
  5. All members of the regular, distinguished and In-House Clinic faculty shall be eligible to attend and vote on initial appointments to the regular, In-House Clinic, and distinguished faculty.
  6. Faculty on leave shall be eligible to vote on personnel matters if they are present to participate in the discussion at which the vote is taken.
- I. Agreements with individual faculty members respecting appointment, promotion and/or tenure entered into prior to the adoption of these provisions shall be unaffected by these rules.

(E) Review and Renewal of Long-Term Contract Faculty:

For each long-term contract faculty member on a contract less than seven years, the Academic Dean shall appoint each academic year a tenured member of the regular or In-House Clinic faculty or a long-term contract faculty member on a seven-year contract to conduct a performance review. At least once in each academic year, the person who conducted the performance review, the Dean, and the Academic Dean shall discuss the status and content of the performance file with the long-term contract faculty member. A satisfactory annual evaluation or series of evaluations shall not be construed as providing a guarantee of the renewal of the long-term contract faculty member's contract, which shall only be renewed as provided herein.

When a long-term contract faculty contract is twelve (12) months away from its end and subject to reappointment, the Academic Dean shall, with the advice of the Faculty Executive Committee, appoint a special committee to make a recommendation regarding renewal. This special committee shall be composed of three (3) to five (5) faculty members,

including at least one long-term contract faculty member on a seven-year contract or a faculty member with clinical tenure. For long-term contract faculty members employed in the Civil Justice Clinic, the Director of the Civil Justice Clinic shall be a member of the committee.

In making its recommendation, the special committee shall consider the candidate's performance reviews and/or annual reports, as the case may be. The special committee also shall consider the candidate's teaching and modeling of excellent lawyering practice, contribution to the profession, public service, and contributions to the College community. If the candidate has produced scholarship or other writing, this work may also be considered in the appointment process. The writing can be writing on law, lawyering, legal education, legal institutions or procedures, practice-oriented materials, or briefs, policy recommendations, or other documents submitted in conjunction with legal, legislative, or administrative proceedings. In addition, "contribution to the profession" can include, but is not limited to, contributions to the methods and substance of clinical teaching, professional skills teaching, or legal education, as well as the provision of vital or novel services to clients or communities. The special committee shall forward a written report with its recommendation to the Dean. Based on the special committee's report and recommendation and his or her own independent evaluation, the Dean may decide to reappoint the candidate to long-term contract faculty status or decline to reappoint to such status. If the Dean declines reappointment to such status, he or she shall notify the candidate in writing that the candidate's appointment shall be a terminal appointment. Such notice shall be provided at least ten (10) months prior to the effective date of the termination. The special committee and the Dean shall make their renewal recommendation and decision consistent with the contract's presumption of renewal, if any. The candidate shall be entitled to all notice and other rights as set forth in the contract.

**SABBATICAL LEAVE POLICY**  
**HASTINGS COLLEGE OF THE LAW**

At its December, 1983 meeting, The Board of Directors at Hastings College of the Law adopted the following amendment to Article VI.2 (e) of the Standing Orders:

SUBJECT TO THE AVAILABILITY OF FUNDING, SABBATICAL LEAVES MAY BE GRANTED BY THE BOARD OF DIRECTORS, UPON RECOMMENDATION OF THE DEAN, TO MEMBERS OF THE FULL-TIME FACULTY FOLLOWING A PRESCRIBED PERIOD OF SERVICE IN THE COLLEGE.

SABBATICAL LEAVES ARE GRANTED TO ENABLE RECIPIENTS TO BE ENGAGED IN INTENSIVE PROGRAMS OF RESEARCH AND/OR STUDY, THUS TO BECOME MORE EFFECTIVE TEACHERS AND SCHOLARS AND TO ENHANCE THEIR SERVICES TO THE COLLEGE.

A REGULAR FULL-TIME FACULTY MEMBER OF THE COLLEGE MAY BE CONSIDERED FOR A SABBATICAL LEAVE OF ABSENCE AFTER SIX (6) YEARS OF SERVICE. THE SABBATICAL LEAVE OF ABSENCE MAY BE ONE SEMESTER LEAVE AT FULL SALARY OR ONE YEAR'S LEAVE AT TWO-THIRDS SALARY.

A SABBATICAL LEAVE WILL EXTINGUISH ONLY THE YEARS OF SERVICE REQUIRED TO EARN SUCH A LEAVE. ANY ADDITIONAL YEARS OF SERVICE WILL BE CREDITED TOWARD ELIGIBILITY FOR A FUTURE SABBATICAL LEAVE. YEARS OF SERVICE SHALL INCLUDE THE TIME A FACULTY MEMBER IS ON A VISITING APPOINTMENT TO THE COLLEGE PRIOR TO APPOINTMENT TO A PERMANENT TENURED OR TENURE-TRACK POSITION.

A SABBATICAL LEAVE OF ABSENCE WILL BE GRANTED ONLY AFTER THE FACULTY MEMBER'S PROPOSED ACTIVITY HAS BEEN APPROVED BY THE ACADEMIC DEAN AND WITH THE UNDERSTANDING THAT THE RECIPIENT, FOLLOWING THE LEAVE, WILL SUBMIT A WRITTEN REPORT ON HIS OR HER SABBATICAL ACCOMPLISHMENTS AND CONTINUE SERVICE AT THE COLLEGE FOR A PERIOD OF AT LEAST EQUAL TO THE PERIOD OF THE LEAVE, UNLESS OTHERWISE SPECIFICALLY APPROVED BY THE BOARD.

Academic Dean's Office  
9/1/96

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## **RESEARCH SEMESTER POLICY**

Research Semesters are granted to enable recipients to engage in intensive research or study and thus to become more effective teachers and scholars.

### **PRE-TENURE**

A full-time untenured faculty member of the College may be considered for a research semester to be taken after three (3) years of service and after being promoted to associate professor. The Research Semester is one semester without teaching responsibilities at full salary; the faculty member must remain in residence at the College, unless given special leave by the Academic Dean to be away for purposes associated with the faculty member's research. The Research Semester must be taken in the fourth or fifth year of service, to be determined in consultation with the Academic Dean. In the academic year in which a Research Semester is taken, the faculty member must do such committee work as designated by the Academic Dean, and must teach a minimum of two regular classes totaling no fewer than six (6) hours, or the clinical equivalent, in the remaining semester.

A Research Semester will extinguish four years of service required to earn a sabbatical. Following the Research Semester, the faculty member will submit a written report to the Academic Dean detailing the work accomplished during the semester.

### **POST-TENURE/LONG-TERM CONTRACT FACULTY**

A full-time tenured faculty member of the College may be considered for a research semester after six (6) years of service. Long-term contract faculty also may be considered for a research semester. Research Semesters are available subject to the discretion of the Academic Dean on the basis of curricular needs and in light, in particular, of the number of Pre-Tenure leaves granted. Ordinarily, a maximum of two research semesters will be awarded to tenured or long-term contract faculty members in any one academic year. The Research Semester is one semester without teaching responsibilities at full salary. In the academic year in which a Research Semester is taken, the faculty member must do such committee work as designated by the Academic Dean and must teach a minimum of eight (8) hours, or the clinical equivalent, in the remaining semester, or twenty (20) hours in a two-year period that includes the year in which the research semester is taken, or the clinical equivalent during the same period. A Research Semester will extinguish four years of service required to earn a sabbatical. Following the Research Semester, the faculty member will submit a written report to the Academic Dean detailing the work accomplished during the semester.

Academic Dean's Office  
9/3/97

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## **POLICY FOR CHILDBEARING AND RELATED LEAVES**

### **MEMORANDUM – April 1995**

This Memorandum is intended to set forth the policies on Childbearing Leaves that apply to Distinguished, Regular, In-House Clinic and Long Term Contract faculty (“faculty members”) at the University of California, Hastings College of the Law.

### **CHILDBEARING LEAVE**

Faculty members who bear a child shall be granted on request a six-week Childbearing Leave with full pay and without assignment of duties. Additional time may be necessary for medical reasons. A Childbearing Leave may be followed by a period of Active Service-Modified Duties and Parental Leave without Pay under the guidelines set forth below.

### **ACTIVE SERVICE-MODIFIED DUTIES**

Upon request to the Academic Dean, faculty members who have more than 50% direct child care responsibility (hereafter, “primary child care responsibility”) for a newborn child or a child under the age of 6 newly placed for adoption or foster care shall be granted a period of Active Service-Modified Duties, with pay. The child may be the faculty member’s child or that of the faculty member’s spouse or domestic partner.

A request for Active Service-Modified Duties shall include a written statement by the faculty member that he or she has primary child care responsibility for a newborn child or child under the age of 6 newly placed for adoption or foster care. The period of modified duties normally should be in the semester during which the child is born or newly placed with the faculty member. However, a faculty member who will have primary child care responsibility for a child who is born, expected to be born or is adopted or placed for foster care during the latter portion of the semester, at his or her option and in coordination with the Academic Dean, normally should be allowed to make appropriate arrangements (such as the acceleration of classes) to complete duties for the birth/adoptive semester and then be granted modified duties during the next full semester. If the child is born, newly adopted or placed for foster care during the summer or winter break, the period of modified duties normally should be in the following semester. In an exceptional case, the period of modified duties might be allowed to run from the middle of the Fall semester to the middle of the Spring semester.

Modified duties shall be assigned by the Academic Dean after consultation with the faculty member. Examples of duties that might be modified include: Committee responsibilities, research, student counseling, exam grading, journal advising, independent study supervision and, at the faculty member's option, teaching one course or seminar. Duties for the Active Service-Modified Duties semester shall be reasonably designed to enable the faculty member to meet his/her child care demands.

A period of Active Service-Modified Duties shall be treated as active service for purposes of retention, promotion and tenure and shall accrue credit for sabbatical leave. A tenure-track faculty member shall have the option of deferring a decision on promotion, retention or tenure while on Active Service-Modified Duties granted pursuant to these guidelines.

### **PARENTAL LEAVE WITHOUT PAY**

Subject to approval by the Academic Dean, Parental Leave without Pay shall be granted on request to any faculty member for up to one year for the purpose of caring for a child. This unpaid leave, when combined with Childbearing Leave and/or Active Service-Modified Duties, normally shall not exceed one year total for each birth, adoption or foster care placement.

A period of Parental Leave without Pay shall not be treated as active service for purposes of promotion and tenure and shall not accrue credit for sabbatical leave. A faculty member on parental leave not covered by State or Federal family and medical leave law is financially responsible for the continuation of benefits during any unpaid portion of the leave.

### **PART-TIME APPOINTMENT AND REDUCTION IN PERCENTAGE OF TIME TO ACCOMMODATE FAMILY NEEDS**

A faculty member may be eligible for appointment to a part time position or may be eligible to reduce his/her percentage of time from full time to part time to accommodate family needs. The Chancellor and Dean, in consultation with the Academic Dean, shall consider teaching and other needs of the College in approving such appointments. Any such part time appointment shall be subject to periodic review by the Chancellor and Dean, in consultation with the Academic Dean, in light of any changes in either the faculty member's or the College's circumstances.

A period of part time appointment shall be treated as active service for purposes of promotion, retention and tenure and shall accrue proportional credit for sabbatical leave. The scholarship requirements for promotion, retention and tenure for part time tenure-track faculty shall be the same as for full time tenure-track faculty (see Secs. III (C) and

(D) of these rules).

## **STOPPING THE TENURE CLOCK**

### **A. STOPPING THE CLOCK FOR CARE OF A CHILD OR CHILDREN**

Upon notice to the Academic Dean, an untenured tenure-track faculty member may stop the tenure clock to care for a newborn child or a child under age six newly placed for adoption or foster care. A request to stop the clock shall include a written statement by the faculty member that he or she has more than 50% direct child care responsibility (“primary child care responsibility”) for the child. The child may be the faculty member’s child or that of the faculty member’s spouse or domestic partner.

The tenure clock may be stopped for up to one year for each event of birth or placement, provided that all time off the clock does not exceed two years in the pre-tenure period. The birth or placement of one or more children at the same time constitutes a single event of birth or placement. A faculty member is eligible to stop the clock even if he or she does not take a formal leave or have a modification of duties.

A faculty member must provide notice of his or her intent to stop the clock within two years of a birth or placement and before July 1 of the academic year in which a promotion, retention or tenure review is to occur. The clock may not be stopped after July 1 of the academic year in which a review is to occur or in cases where there has been a review resulting in a decision not to continue the faculty member’s appointment.

Stopping the clock will not automatically delay the timing of a promotion, retention or tenure review. However, faculty members may request to defer such reviews by one year to correspond with a year of stopping the clock.

### **B. STOPPING THE CLOCK FOR OTHER FAMILY OR PERSONAL NEEDS**

Upon written request to the Academic Dean and at the Academic Dean’s discretion, with the concurrence of a majority of the Rank and Tenure Committee, an untenured tenure track faculty member may be permitted to stop the tenure clock for non-routine family or personal reasons not covered by Section A above.

The tenure clock may be stopped for up to one year for non-routine family or personal reasons, provided that all time off the clock does not exceed two years in the pre-tenure period. A faculty member is eligible to stop the clock even if he or she does not take a formal leave.

A faculty member must submit his or her written request to stop the clock for non-routine family or personal reasons before July 1 of the academic year in which a promotion,

retention or tenure review is to occur. The clock may not be stopped after July 1 of the academic year in which a review is to occur except in exceptional circumstances; and it may not be stopped in cases where there has been a review resulting in a decision not to continue the faculty member's appointment.

Stopping the clock will not automatically delay the timing of a promotion, retention or tenure review. However, faculty members may request to defer such reviews by one year to correspond with a year of stopping the clock.

### **C. APPLICABILITY OF PROVISIONS TO LONG-TERM CONTRACT FACULTY**

Provisions applicable to stopping the clock for child care, family, or personal reasons shall also apply to long-term contract faculty members.

### **LIMIT ON PRE-TENURE ACCOMMODATIONS FOR FAMILY OR PERSONAL NEEDS**

The total time to tenure shall in no case exceed seven years (eight years for In-House Clinic faculty), and the combined total of periods of leave for family accommodations, other leaves unrelated to academic duties, and time off the clock shall not exceed two years.

### **PERSONNEL REVIEWS**

It is the policy of the University of California, Hastings College of the Law, that faculty members shall not be arbitrarily disadvantaged in their promotion, advancement, or compensation because they have elected to take a childbearing or parental leave, to stop the clock, or to work part time.

The files of such faculty members shall be evaluated as if the work were done in the normal period of service and the Rank and Tenure Committee shall so state in its report to the faculty. The scholarship requirements for promotion, retention and tenure for such faculty members shall, however, be the same as for full time tenure-track faculty (see Secs. III (C) and (D) of these rules).

**CODE OF FACULTY RIGHTS AND RESPONSIBILITIES  
AND PROCEDURES FOR DISCIPLINE AND GRIEVANCES**

**(As enacted by the Faculty on May 4, 1992)**

**PREAMBLE**

Hastings College of the Law seeks to provide and sustain an environment conducive to sharing, extending, and critically examining knowledge and values, and to furthering the search for wisdom. Effective performance of these functions requires that faculty members be free to research and teach in accord with appropriate standards of scholarly inquiry.

The Faculty's privileges and rights, including tenure, rest on the mutually supportive relationships among the Faculty's special professional competence, its academic freedom, and the central functions of the College. These relationships are also the source of the professional responsibilities of faculty members.

This Code is intended to foster the protection of academic freedom, the preservation of the highest standards of teaching and scholarship, and the advancement of the mission of the College as an institution of higher learning.

Part I of this Code contains a statement of both the rights and responsibilities of the Faculty. Part II of this Code deals with the enforcement processes to be utilized in resolving allegations of unacceptable faculty behavior or abridgement of faculty rights. Those processes must meet basic standards of fairness and must reflect significant faculty involvement. General guidelines for these enforcement procedures and sanctions are elaborated, and procedural arrangements are set forth which shall be employed to satisfy those guidelines.

The authority to discipline faculty members in appropriate cases derives from the shared recognition by the Faculty and the Administration that the purpose of discipline is to preserve conditions necessary to the College fulfilling its mission as an institution of higher learning. College discipline should be reserved for faculty misconduct that is either serious in itself or is made serious through its repetition or its consequences.

Faculty members who are appointed by the Board of Directors to serve as Deans of the College or in other administrative positions are subject to disciplinary proceedings

under this Code only for conduct in their capacity as faculty members and not for conduct in their administrative capacity.

## **PART I**

### **PROFESSIONAL RIGHTS AND RESPONSIBILITIES**

Article 1 of this Part sets forth the professional rights of the Faculty and the concomitant responsibility of the College to maintain conditions supportive of the Faculty's pursuit of the College's central function as a learning institution.

Article 2 of this Part elaborates standards of professional conduct, derived from general professional consensus about the existence of certain precepts as basic to acceptable faculty behavior. Conduct which departs from these precepts is viewed by the faculty as unacceptable because it is inconsistent with the mission of the College. The articulation of unacceptable faculty conduct is appropriate both to verify that a consensus about minimally acceptable standards in fact does exist and to give fair notice to all that departures from these minimal standards may give rise to disciplinary proceedings.

## **ARTICLE 1**

### **PROFESSIONAL RIGHTS OF FACULTY**

In support of the College's central function as an institution of higher learning, a major responsibility of the College is to protect and encourage the Faculty in its teaching, scholarly research, and public service, and to preserve conditions which facilitate these pursuits. Such conditions, as they relate to the Faculty, include, for example:

1. free inquiry and exchange of ideas;
2. the right to present controversial material relevant to a course of instruction;
3. enjoyment of constitutionally protected freedom of expression;
4. collective participation in the governance of the College, including:
  - (a) approval of course descriptions and manner of instruction,
  - (b) establishment of requirements for matriculation and for degrees,
  - (c) appointment and promotion of faculty,
  - (d) appointment and reappointment of Deans,

- (e) the formulation and application of rules and procedures for discipline of the faculty and students,
  - (f) establishment of norms for teaching responsibilities and for evaluation of both faculty and student achievement, and
  - (g) determination of the organization of the faculty;
5. the right to be judged by one's colleagues, in matters of promotion, tenure, and discipline, solely on the basis of the faculty member's professional qualifications and professional conduct and in accordance with fair procedures.

## **ARTICLE 2**

### **I. PROFESSIONAL RESPONSIBILITIES**

Faculty responsibilities and unacceptable conduct are organized in this Code around the individual faculty member's relation to teaching and students, to scholarship, to the College, to colleagues, and to the community. The following is an aspirational statement of each faculty member's professional responsibilities and is intended to serve as a general basis for the more specific articulation of faculty rules of conduct set forth below:

Faculty members should participate in and encourage the pursuit of knowledge, by teaching and research, in an intellectually honest fashion. Faculty members should demonstrate proper respect for students and colleagues and assure that their evaluations of others are based on merit. Faculty members should accept their share of responsibility for the governance of the College and public service.

During the course of disciplinary proceedings a faculty member may offer as a defense that the conduct in question is justified by rights and responsibilities of the faculty recognized either by this Code or by other statements of professional rights and responsibilities issued by the American Association of University Professors or national accrediting organizations for law schools.

### **II. UNACCEPTABLE CONDUCT**

#### **A. Teaching and Students**

- 1. Failure to meet the responsibilities of instruction, including:
  - (a) arbitrary denial of access to instruction;

- (b) significant failure, without legitimate reason, to meet class, or to keep office hours;
  - (c) evaluation of student work by criteria not directly reflective of course performance;
  - (d) failure to report dishonest academic conduct on the part of students;
  - (e) failure to respect the duty of confidentiality in evaluating the work of students and in reporting student grades;
  - (f) failure to acknowledge significant academic or scholarly assistance received from students; and
  - (g) undue and unexcused delay in evaluating student work.
2. Discrimination against a student or group of students on political grounds, or for reasons of race, religion, sex, sexual orientation, ethnic origin, national origin, ancestry, citizenship, age, marital status, disability,<sup>1</sup> or status as a veteran.
  3. Accepting professional responsibility within College programs as teacher, supervisor, or employer for any student with whom the faculty member has a close familial or analogous relationship.

**B. Scholarship**

Violation of canons of intellectual honesty, such as intentional misappropriation of the writings, research, and findings of others.

**C. The College**

1. Intentional disruption of classes, functions, or activities sponsored or authorized by the College.
2. Intentional damage to or destruction of property belonging to the College or located on its premises.
3. Incitement of others to disobey College rules when such incitement is likely to produce imminent action in violation of College rules under circumstances that constitute a clear and present danger that violence against persons or property will occur.

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<sup>1</sup> As defined by federal regulations issued pursuant to 29 USC Section 794.

4. Unauthorized use of College resources or facilities on a significant scale for personal, commercial, political, or religious purposes.
5. Allowing any outside professional activity to interfere with the performance of College duties. For this purpose, the term "outside professional activity" shall include (but not be limited to) teaching at another institution, consulting and the practice of law, but shall not include the preparation of books or articles for publication or comparable activity of an academic nature that enriches the faculty member's capacity as a scholar and teacher.
6. Sexual harassment of another member of the College community<sup>2</sup> as defined in the College's Policy on Sexual Harassment.

**D. Colleagues**

1. Making evaluations of the professional competence of faculty members by criteria not reflective of professional performance. In making evaluations of colleagues a faculty member may not discriminate for or against others on political grounds, or for reasons of race, religion, sex, sexual orientation, ethnic origin, national origin, ancestry, citizenship, age, marital status, disability,<sup>3</sup> or status as a veteran.
2. Breach of College rules governing confidentiality in personnel matters.

**E. The Community**

Intentional misrepresentation of personal views as a statement of position of the College or any of its agencies. (An institutional affiliation appended to a faculty member's name in a public statement or appearance is permissible, if used solely for purposes of identification.)

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<sup>2</sup> As used in this Code, the term "member of the College community" shall mean any student, faculty member, or academic or administrative staff member.

<sup>3</sup> As defined by federal regulations issued pursuant to 29 U.S.C. ' 794.

## **PART II**

### **PROCEDURES RELATING TO THE ADMINISTRATION OF DISCIPLINE AND TO FACULTY GRIEVANCES**

#### **ARTICLE 1 - DISCIPLINE PROCEDURES**

##### **I. GENERAL PROVISIONS FOR THE ADMINISTRATION OF DISCIPLINE**

The types of discipline provided herein may be imposed on a faculty member only in accordance with the procedures set forth in this Article. Without invoking the procedures in this part, the Dean or Academic Dean may issue a reprimand, orally or by a writing that is not placed in the personnel file of the faculty member, as an informal warning about improper conduct.

With respect to the imposition of disciplinary sanctions, this Code deals only with professional conduct or misconduct. Faculty members, however, in common with all other members of the College community, are subject to the general rules and regulations of the College, e.g., those pertaining to parking, library privileges, health and safety, and use of College facilities.

Disciplinary action is to be distinguished from certain other administrative actions taken as the result, for example, of physical or mental disability rather than willful misconduct.

##### **II. TYPES OF DISCIPLINE**

The types of discipline that may be imposed on a member of the Faculty, in increasing order of severity, are as follows: warning, censure, exclusion from activities, suspension with pay, reprobation, suspension without pay, demotion, and dismissal. The severity and type of discipline selected for a particular offense must be appropriately related to the nature and circumstances of the case. An imposition of discipline may include a combination of more than one type and may also include a requirement of restitution.

A. Warning. Written notice to the faculty member that future conduct of a particular nature will be cause for further disciplinary action.

B. Censure. Written reprimand placed in the faculty member's personnel file as a formal expression of institutional rebuke.

- C. Exclusion from activities. Exclusion from participation in designated activities or areas of the College for a specified period of time.
- D. Suspension with pay. Termination of employment for a specified period, not to exceed six (6) months, with pay. Suspension may include exclusion from designated areas of the campus.
- E. Reprobation. Written reprimand placed in the faculty member's personnel file as a formal expression of institutional rebuke combined with a reduction in salary of five percent (5%) or less.
- F. Suspension without pay. Termination of employment for a specified period, not to exceed six months, without pay. Suspension may include exclusion from designated areas of the campus. This type of discipline may be imposed only upon the affirmative vote to suspend without pay by two-thirds (2/3) of the regular tenured faculty members who are present and voting at a special meeting to consider the case.
- G. Demotion. Reduction to lower rank, a reduction in salary of more than five percent (5%), or both. This type of discipline may be imposed only upon the affirmative vote to demote by two-thirds (2/3) of the regular tenured faculty members who are present and voting at a special meeting to consider the case. If demotion includes the revocation of tenure, the decision of the faculty to demote shall be subject to the approval of the Board of Directors.
- H. Dismissal. The termination of employment by the College. This type of discipline may be imposed only upon the affirmative vote to dismiss by two-thirds (2/3) of the regular tenured faculty members who are present and voting at a special meeting to consider the case. If dismissal includes the revocation of tenure, the decision of the faculty to dismiss shall be subject to the approval of the Board of Directors.

### **III. RESTITUTION**

As part of discipline that may be imposed after a finding that the Code has been violated, the faculty member may be ordered to make reimbursement to the injured person, organization, or the College for any financial loss caused by the violation. The faculty member also may be required to disgorge any unjust enrichment gained by the violation. The inclusion of this form of discipline within this Code does not preclude the College from pursuing all available remedies in courts of law.

#### **IV. INTERIM SANCTIONS**

Before final action on an alleged violation, the Academic Dean<sup>4</sup> may impose a sanction on an interim basis when there is reasonable cause to believe that such action is necessary for protection of health, safety, or welfare of members of the College community or to avoid disruption of the academic process. Interim sanctions shall be limited to warning, temporary suspension with pay, and exclusion from designated activities or areas of the campus. When such action is necessary the Academic Dean must explain the reasons for the interim sanction and insure that disciplinary procedures are initiated within seven days and promptly concluded. The Academic Dean shall consult with the Executive Committee except where the circumstances render such consultation impracticable.

#### **V. PROCEDURES RELATING TO DISCIPLINE**

Procedures for discipline are designed to provide safeguards against arbitrary or unjust disciplinary actions and a means for arriving at fair and accurate decisions. No disciplinary sanction for professional misconduct shall be imposed except in accordance with the following procedures:

##### **A. Initiation of Disciplinary Proceedings**

1. Disciplinary proceedings shall be initiated by the forwarding of a complaint by the Academic Dean to the Faculty Executive Committee. The Academic Dean<sup>5</sup> may act at his or her own initiative or in response to information provided by others. The complaint shall be in writing and shall contain a full statement of the facts underlying the charges.

2. The Executive Committee may, if it deems mediation to be appropriate, direct the complainant and the respondent to meet with a mediator selected by the committee in an attempt to resolve the matter. The thirty (30) day period in Paragraph 4, below, shall be stayed during the mediation process.

3. If a member of the Executive Committee is the respondent in the complaint, that member shall be recused from participating in the Executive Committee's

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<sup>4</sup> If a complaint is filed against the Academic Dean, the function to be performed by the Academic Dean under this section shall be assumed by the Dean.

<sup>5</sup> If a complaint is filed against the Academic Dean, those functions to be performed by the Academic Dean under these discipline procedures shall be assumed by the Associate Academic Dean except where otherwise specifically provided.

consideration of the complaint. The Academic Dean shall appoint another member of the faculty, with the advice and consent of the Executive Committee, to serve as an acting member of the Executive Committee for the purpose of performing all committee functions relating to the complaint.

4. Within thirty (30) days after receipt of a complaint, the Executive Committee shall determine whether the alleged facts contained in the complaint, if true, would constitute a violation of the Code. If a complaint is received at a time when classes are not in session, the Executive Committee may extend the time for making the determination required under this paragraph for a period of up to thirty (30) additional days.

5. If the Executive Committee determines that the complaint does not state a violation of the Code, it shall advise the complainant to that effect in a written communication containing the reasons for its determination.

6. If the Executive Committee determines that the complaint does state a violation of the Code, the Chair of the Executive Committee shall promptly deliver a copy of the complaint and written notice of the committee's determination to the respondent (either personally or by certified mail with return receipt requested), the complainant, and the Academic Dean.

7. The respondent shall have fourteen (14) days from the date of receipt of the notice specified in Paragraph 6 to file an answer in writing with the Executive Committee. Upon receipt of a written application, the Chair of the Executive Committee may grant a reasonable extension of time, not exceeding thirty (30) days, for filing of an answer.

8. Within thirty (30) days after receipt of the answer or expiration of the time allowed if no answer is filed, the Executive Committee shall determine whether there is probable cause to believe that a violation of the Code has occurred. The finding of probable cause shall require a reconfirmation that the alleged facts, if true, would constitute a violation of the Code and a determination that a reasonable hearing panel could conclude that the complaint has been proven by clear and convincing evidence.

9. If warranted by the circumstances, the Executive Committee may direct the production of affidavits, offers of proof, and files and documents under the control of the complainant, respondent, or administration. Any confidential documents shall remain confidential within the committee.

10. If probable cause is not found to exist, the Executive Committee shall dismiss the complaint. Written notice of the dismissal and the reasons for it shall be delivered to the complainant, respondent, and Academic Dean.

11. If probable cause is found to exist, the Executive Committee shall refer the case for formal hearing as provided in section V.B. of this Article. The Chair of the Executive Committee shall give the respondent written notice of the time and place of the hearing at least thirty (30) days in advance. The hearing notice shall be delivered personally or by certified mail with return receipt requested.

12. At any time before a final resolution of the case, the Academic Dean and the respondent may agree to informal resolution of the complaint provided that the Executive Committee approves of the terms of such resolution.

## **B. Hearing Procedures**

1. The Executive Committee shall transmit the file to a hearing committee consisting of either a panel of the Committee on Faculty Conduct or a specially appointed outside hearing panel constituted under this section. If replacement of a hearing committee member becomes necessary due to incapacity or disqualification before final resolution of the complaint, the Executive Committee shall determine whether a new hearing must be convened. A replacement hearing committee member shall be chosen in the same manner as initial appointments under this section.

a. Each year the Executive Committee, in consultation with the Academic Dean, shall appoint a panel of six (6) members of the regular tenured faculty to serve as the Committee on Faculty Conduct. If a hearing committee is required, it shall consist of three (3) members chosen by lot. If a complaint is made against a member of the Committee on Faculty Conduct, that member shall be recused from service in that proceeding. If there are fewer than four (4) members of the Committee on Faculty Conduct eligible for a hearing committee, the Executive Committee shall appoint acting committee members, as needed, in consultation with the Academic Dean.

b. If the Executive Committee determines that the complaint should be referred to an outside hearing panel in order to insure impartiality, in fact or in appearance, then the Academic Dean shall appoint a panel of three outside hearing officers at the College's expense with the advice and consent of the Executive Committee.

2. The Hearing Committee shall choose one member to serve as chair. All members of the Hearing Committee must be present at each session.

3. The case against the respondent shall be presented by the College. The Academic Dean shall designate a staff or faculty member to act as College representative in the disciplinary proceedings.

4. The College representative and respondent shall be entitled to be present at all sessions of the Hearing Committee when evidence is being received. The respondent has the right to be represented and accompanied by counsel paid for by respondent.

5. The College representative and respondent shall have the right to present documentary evidence and witnesses, to submit rebuttal evidence, and to conduct cross examination. The College representative and respondent shall provide each other with all documents and names of all witnesses that are to be introduced at any hearing. This material shall be provided at least seven (7) calendar days prior to the hearing, but the Hearing Committee may grant exception for good cause shown. The Hearing Committee has the authority to order further offers of proof and other summaries of intended testimony in the interest of justice.

6. The College shall bear the burden of proof by clear and convincing evidence.

7. In order to preserve the confidentiality of the hearing, the hearing shall be closed to all persons whose presence is not essential to the conduct of the hearing. The complainant, respondent, and College representative, however, may jointly agree to an open hearing.

8. The College shall make an adequate record of the hearing by tape recording or otherwise. If a tape recording of the hearing is made, the College representative and the respondent and his or her representative shall have the right to listen to and receive a copy of the tape. They shall be entitled to a written transcript at their expense upon a showing of good cause as determined by the Hearing Committee. In addition the respondent may make provisions, including the payment of all costs, for a stenographic report.

9. The Hearing Committee shall have the discretion to prescribe procedures for matters not addressed herein. The hearing need not be conducted according to the rules of evidence that would apply in a court of law. For example:

a. The Hearing Committee may admit any relevant evidence if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of the evidence over objection in civil actions.

b. The Hearing Committee may admit hearsay evidence for the purpose of supplementing or explaining other evidence, but hearsay evidence shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions.

10. The Hearing Committee may, upon an appropriate showing of need by the College representative or respondent, or at its own initiative, direct the production of files and documents under the control of the administration, complainant, or respondent. Any confidential documents shall remain confidential within the committee.

11. The Hearing Committee may call witnesses not identified by the parties. The Hearing Committee shall provide the College representative and the respondent with at least three days advance notice of such witnesses.

12. All witnesses shall be sworn under oath to provide truthful testimony. Before offering testimony witnesses should also be advised of the serious nature of the proceedings and that the offering of false testimony may subject the witness, if a member of the Hastings community, to College disciplinary proceedings.

13. No evidence other than that presented at the hearing shall be considered by the Hearing Committee or have weight in the proceedings, except that notice may be taken of any judicially noticeable fact. The parties shall be informed of matters thus noticed and each party shall be given a reasonable opportunity to refute such matters.

### **C. Post-hearing Procedures**

1. Within fourteen (14) days after the conclusion of the hearing process, the Hearing Committee shall render a written decision containing its findings of fact, conclusions on violation of the Code, and the discipline to be imposed, if any. The Hearing Committee is not limited by any type of discipline proposed in the complaint.

2. A copy of the Hearing Committee's written decision shall be delivered to the College representative, the complainant, the respondent, the Academic Dean, and the Dean.<sup>6</sup> The written decision and record of the proceedings shall be confidential; the Hearing Committee, however, may authorize a complete or partial release of the decision or record for good cause or with the joint consent of the complainant, respondent, and College representative.

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<sup>6</sup> If a complaint is filed against the Dean, those functions to be performed by the Dean under these disciplinary procedures shall be assumed by the Academic Dean.

3. The Hearing Committee may reopen a case if before its decision is rendered either the College representative or the respondent presents newly discovered facts or circumstances that might significantly affect the impending decision.

4. Except in cases where the Hearing Committee imposes suspension without pay, demotion, or dismissal, the respondent may submit a written appeal of the Hearing Committee's decision to the Dean within fourteen days of the issuance of the decision on the grounds either that proper procedures were not applied, that the decision is not supported by the evidence presented, or that the recommended discipline is inappropriate.

5. In the event of appeal, the Dean shall review the Hearing Committee's written decision and issue a written ruling. The Dean's review shall be based on the hearing record. The Dean may request written argument from the College representative and respondent. The Dean's ruling shall be rendered no later than thirty days after receipt of the appeal. Copies of the Dean's ruling shall be delivered to the complainant, respondent, College representative, and Academic Dean.

a. The ruling of the Dean shall state the disposition of the case, the reasons for the disposition, and whether a new hearing is required. The Dean's ruling on the need for a new hearing shall be final in cases not involving an imposition of suspension without pay, demotion, or dismissal.

b. The Dean shall have the power to reduce the amount of restitution and any type of discipline other than suspension without pay, demotion, or dismissal. The decision of the Dean shall be final in cases not involving suspension without pay, demotion, or dismissal.

6. If there is no appeal by the respondent to the Dean, then the decision of the Hearing Committee shall be final in cases not imposing suspension without pay, demotion, or dismissal.

7. Suspension without pay, dismissal, or demotion may be imposed only upon approval by an affirmative vote of two-thirds (2/3) of the regular tenured faculty that are present and voting at a special meeting to consider the case.

a. If the decision of the Hearing Committee is to impose suspension without pay, demotion, or dismissal, the Dean shall promptly forward the written decision to the regular tenured faculty for approval. The written decision shall be presented with at least two (2) weeks advance notice of the special meeting. The hearing record shall be made available for review by any faculty member eligible to vote on the matter.

b. During the course of Faculty consideration but no later than five (5) days before the special meeting, the College representative and respondent may submit written argument for Faculty consideration. Such written arguments shall be made available by the Dean with the hearing record.

c. The Faculty may sustain the Hearing Committee's imposition of suspension without pay, demotion, or dismissal only upon an affirmative vote by two-thirds of the eligible faculty members present and voting. Alternatively, the Faculty may impose either a less severe discipline that includes demotion by a two-thirds (2/3) majority of those present and voting or a less severe discipline that does not include demotion or suspension without pay by a simple majority of those present and voting.

d. The voting in special meetings to consider the imposition of discipline shall be by secret ballot.

e. The decision of the Faculty shall be final in cases not involving the revocation of tenure.

8. If a decision of the Faculty to demote or dismiss includes the revocation of tenure, such decision shall be subject to the approval of the Board of Directors. The decision of the Board in approving demotion or dismissal including revocation of tenure shall be final. If the Board does not approve demotion or dismissal including revocation of tenure, then the Dean, acting in consultation with the Executive Committee, may impose any less severe type of discipline permitted under this Article other than demotion or dismissal. The decision of the Dean in such cases shall be final.

## **ARTICLE 2 - GRIEVANCE PROCEDURES**

### **I. GENERAL PROVISIONS RELATING TO FACULTY GRIEVANCES**

Authority for the right of a faculty member to present a grievance against the College or its administration, hereinafter the College, derives from the statement of faculty rights included in Part I of this Code. Effective preservation of such rights requires that there be a meaningful avenue of redress when a violation is perceived to have occurred. The rules stated in this Title are intended to provide procedures and safeguards for faculty rights and privileges.

In cases of personnel review involving tenure, promotion, or reappointment, such complaints may be based only on allegations:

(1) that the procedures were not in accordance with the applicable rules and requirements of the College, or (2) that the challenged decision was reached on the basis of impermissible criteria not reflective of professional performance, including political grounds, race, religion, sex, sexual orientation, ethnic origin, national origin, ancestry, citizenship, age, marital status, disability<sup>7</sup>, or status as a veteran.

In cases of proposed termination of a Faculty member before the expiration of the Faculty member's contract, except where termination is the result of discipline imposed under this Code, the Faculty member may request a hearing under the grievance process. The grievant shall have the right to a hearing on the case to determine whether the proposed early termination is for good cause and has been recommended in accordance with a procedure that does not violate the privileges of the Faculty member.

## **II. PROCEDURES FOR FACULTY GRIEVANCES**

### **A. Initiation of Grievance Procedures**

1. Any faculty member may submit a grievance to the faculty Executive Committee alleging that the member's rights or privileges have been violated. The grievance shall be in writing and shall contain a full statement of the facts underlying the grievance.

2. Within fourteen (14) days of receipt of a grievance, the Executive Committee shall determine whether or not probable cause has been shown. The finding of probable cause shall require the determinations that the alleged facts, if true, would constitute a violation of the faculty member's rights and privileges and that there is a reasonable basis to believe that the allegations of fact are true.

3. Before determining probable cause, the Executive Committee may require that the grievant first exhaust all appropriate administrative remedies. In that event, the fourteen (14) day period in Part II, Article 2, Section II.A.2. shall be stayed until such time as the grievant certifies to the satisfaction of the committee that all administrative remedies have been exhausted.

4. During the course of considering the existence of probable cause, the Executive Committee may require an appearance before it by the grievant or other members of the College community.

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<sup>7</sup> As defined by federal regulations issued pursuant to 29 USC Section 794.

5. If warranted by the circumstances, the Executive Committee may direct the production of affidavits, offers of proof, and files and documents under the control of the grievant or College. Any confidential documents shall remain confidential within the committee.

6. If the Executive Committee finds probable cause to believe that a violation has occurred, it shall promptly deliver a copy of the grievance to the Academic Dean<sup>8</sup> with a statement that probable cause has been determined.

7. If the Executive Committee determines that the grievant has not shown probable cause to believe that a violation has occurred, it shall advise the grievant to that effect in a written decision stating the reasons for its conclusion.

8. If the Executive Committee determines that the grievant has shown probable cause to believe that a violation has occurred, the committee shall have the discretion to attempt to bring about a settlement of the controversy between the grievant and the administrative officer, officers, or other persons concerned. The settlement period shall not extend beyond thirty (30) days from the date that probable cause is determined, except with the consent of the grievant. Absent settlement, the committee shall refer the case for a formal hearing in accordance with the provisions set forth below.

## **B. Hearing Procedures**

a. The Executive Committee shall refer grievances to a Hearing Committee consisting of either a panel of the Committee on Faculty Conduct or a specially appointed outside hearing panel constituted in accordance with Part II, Article 1, Section V.B.1.

2. The Hearing Committee shall choose one (1) member to serve as chair. All members of the Hearing Committee must be present at each session.

3. The grievant may be accompanied or represented by another person of his or her choosing at any stage of the hearing process. The Academic Dean shall designate a representative from the faculty or administration to represent the College in responding to the grievance.

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<sup>8</sup> If a grievance charges that the faculty member's rights or privileges have been violated by the Academic Dean, those functions to be performed by the Academic Dean under these grievance procedures shall be assumed by the Associate Academic Dean.

4. The grievant and the College representative shall be entitled to be present at all sessions of the Hearing Committee when evidence is being received.

5. The grievant and the College representative shall have the right to present documentary evidence and witnesses, to submit rebuttal evidence, and to conduct cross examination. The grievant and the College representative shall provide each other with all documents and names of all witnesses who are to be introduced at any hearing at least seven (7) calendar days prior to the hearing, but the Hearing Committee may grant an exception for good cause shown.

6. The grievant shall bear the burden of proof by a preponderance of the evidence.

7. In order to preserve confidentiality, the hearing shall be closed to all persons whose presence is not essential to the conduct of the hearing. The grievant and the College representative, however, may jointly agree to an open hearing.

8. The identity of sources of personnel evaluations, insofar as they are confidential, shall remain confidential within the Hearing Committee.

9. The College shall make an adequate record of the hearing by tape recording, written memorandum, or otherwise. If a tape recording of the hearing is made, the grievant and his or her representative shall have the right to listen to and receive a copy of the tape. The grievant shall be entitled to a written transcript upon a showing of good cause as determined by the Hearing Committee. In addition the grievant may make provisions, including the payment of all costs, for a stenographic record.

10. The Hearing Committee shall have the discretion to prescribe procedures for matters not addressed herein. The hearing need not be conducted according to the technical legal rules relating to evidence and witnesses. For example:

a. The Hearing Committee may admit any relevant evidence if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of the evidence over objection in civil actions.

b. The Hearing Committee may admit hearsay evidence, for the purpose of supplementing or explaining other evidence, but hearsay evidence shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions.

11. The Hearing Committee may, upon an appropriate showing of need by the grievant or College representative, or at its own initiative, direct the production of files and documents under the control of the grievant or administration. Any confidential documents shall remain confidential within the committee.

12. The Hearing Committee may call witnesses not identified by the parties. The Hearing Committee shall provide the College representative and the grievant with at least three (3) days advance notice of such witnesses.

13. All witnesses shall be sworn under oath to provide truthful testimony. Before offering testimony witnesses should also be advised of the serious nature of the proceedings and that the offering of false testimony may subject the witness, if a member of the Hastings community, to College disciplinary proceedings.

14. No evidence other than that presented at the hearing shall be considered by the Hearing Committee or have weight in the proceedings, except that notice may be taken of any judicially noticeable fact. The parties shall be informed of matters thus noticed and each party shall be given a reasonable opportunity to refute such matters.

### **C. Post-Hearing Procedures**

1. At the conclusion of the hearing, the Hearing Committee shall promptly render to the Dean<sup>9</sup> a written decision including its findings of fact, conclusions on the existence of a violation of faculty rights and privileges, and recommendation of a remedy, if any.

2. A copy of the Hearing Committee's decision shall immediately be delivered to the grievant, the Chair of the Executive Committee, the Academic Dean, and the Dean. The written decision and record of the proceedings shall be confidential; the Hearing Committee, however, may authorize a complete or partial release of the decision or record for good cause or with the joint consent of the grievant and the College representative.

3. The Hearing Committee may reopen a case if before its decision is rendered either party presents newly discovered facts or circumstances that might significantly affect the impending decision.

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<sup>9</sup> If a grievance charges that the faculty member's rights or privileges have been violated by the Dean, those functions to be performed by the Dean under these grievance procedures may be delegated by the Dean, with the advice and consent of the Executive Committee, to the Academic Dean, Associate Academic Dean, or Chair of the Executive Committee. Such delegation shall be made before a decision is rendered by the Hearing Committee.

4. The grievant or the College representative may submit a written appeal of the Hearing Committee decision to the Dean within fourteen (14) days of the issuance of the Hearing Committee's decision on the grounds either that the Hearing Committee has not applied proper procedures, that the decision is not supported by the evidence presented, or that the recommended remedy is inappropriate.

a. On appeal, the Dean's review shall be based on the hearing record and the written decision of the Hearing Committee. The Dean also may request additional written argument from the grievant and the College representative.

b. Within thirty (30) days after receipt of the appeal, the Dean shall issue a written ruling accepting or rejecting, in whole or in part, the Hearing Committee's findings and recommendation. The Dean's ruling shall state the reasons for the disposition. A copy of the Dean's ruling shall promptly be delivered to the grievant, the Executive Committee, and the Academic Dean.

c. The decision of any appeal by the Dean shall be final.

5. If there is no appeal of the Hearing Committee's decision, the Dean shall issue a written ruling after the time for appeal has expired but no later than thirty (30) days after receipt of the Hearing Committee's written decision. The Dean's ruling shall state his disposition of the grievance and include a determination of whether a violation of faculty rights and privileges has occurred and the remedy to be awarded to the grievant, if any. The decision by the Dean shall be final.

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**Policies and Procedures for Establishing A Research Center or  
Institute at UC Hastings**

(approved by Board of Directors, 3/1/2013)

**Governing Principles**

1. Faculty members who are interested in and have opportunities to obtain outside funding for research on a continuing basis may seek to have the College establish a Research Center or Institute, as an umbrella organization with the College, to receive funds from outside foundations, individuals, firms or governmental agencies to support the defined activities of the Center or Institute. [The procedure for establishing a Center or Institute is set out below.]
2. The purpose of the Center or Institute is to provide research in a particular field or subject matter. Legislators or other governmental bodies responsible for the development of public policy may use research undertaken by a Center or Institute. Research Centers and Institutes are precluded from engaging in lobbying. Centers and Institutes may create clinical programs that are designed to have students learn and apply the Center's or Institute's field of study.
3. Research Centers and Institutes should be primarily self-supporting. The College will provide minimal administrative support and space, when feasible. The College will also provide for the management of the accounting and financial record keeping for the projects undertaken by the Center or Institute. In turn, overhead will be taken from the funds received by the Centers and Institutes. The amount of support provided by the College to the Centers and Institutes and the overhead taken by the College from the Centers and Institutes should be memorialized in writing and reviewed regularly by the administration, and in any event, no less frequently than every five years. Changes in support and overhead should be made to reflect the current state of the College's finances and space availability.
4. Research Centers and Institutes should be titled and defined broadly enough to capture a wide range of activities so as to allow faculty colleagues who have related interests to participate when and if funding opportunities for particular projects present themselves.
5. There should be some clear benefit or tie-in into the UC Hastings curriculum and course of study supporting the decision to establish a Research Center or Institute to ensure that its activities over time may benefit not only the individual faculty members

who initiate the Center or Institute, but also the students and UC Hastings community generally.

6. Insofar as any of the projects undertaken by a Center or Institute contemplate the creation of a clinic or the award of credit to students for externships, the creation of new classes, or teaching responsibilities for members of the Center's or Institute's staff, the faculty members proposing the project will follow the normal rules regarding such curricular additions and seek approval of the Curriculum Committee and of the Faculty Appointments Committee as needed.

7. Recognizing that it may be desirable for the Centers and Institutes to create new staff positions, at least for certain projects that may be undertaken in a particular Center or Institute, the College will create titles for these staff. Such titles include, but are not limited to, fellow, researcher, staff attorney, director and project manager.

8. All established policies and procedures of the College shall be applicable to any Research Center or Institute that is established pursuant to these procedures, including but not limited to UC Hastings personnel policies and the policies in the UC Hastings Branding and Identity Manual.

9. If at any time an approved Research Center or Institute either lacks the outside funding necessary to carry on its operations or engages in activities or conduct inconsistent with the preceding principles or with the College's policies and procedures, the faculty or the Board of Directors may terminate the authorization for that Center or Institute and it shall cease its operations.

### **Procedures**

1. Faculty member(s) desiring to establish a Research Center or Institute shall submit a proposal defining the scope and objectives of the Center or Institute to the Chancellor and Dean and the Academic Dean.

2. The Deans shall review the proposal to make sure that it is consistent with the above principles and shall consult the Faculty Executive Committee about the proposal.

3. When fully refined, the Deans shall bring the proposal to the full faculty for its approval.

4. The Deans shall report to the Board of Directors the faculty's action in establishing the Center or Institute.

5. Once a Center or Institute is established, faculty members seeking grants and other funding to support proposed projects at the Center or Institute must notify the Chancellor and Dean and the Academic Dean. If the Deans determine that the funding is not appropriately with the scope of the Center's or Institute's activities or otherwise within the approved guidelines, and faculty members disagree with that determination, they shall seek the advice of the Executive Committee, although the ultimate determination to sign a funding proposal on behalf of the College rests with the Chancellor and Dean.

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## **Summary of Policy on Discrimination, Protected-Status Harassment, Sexual Harassment, and Sexual Assault and Violence Related to Students**

The University of California, Hastings College of the Law (“Hastings”) is a community of students and professionals committed to upholding the principles of academic integrity and honesty and the highest standards of professional conduct in teaching, learning, research, and service. In expression of this commitment, and in strict compliance with federal, state, and local laws, Hastings has adopted a policy prohibiting acts of discrimination, bias, protected-status harassment, sexual harassment, and sexual assault and violence against students, and establishing procedures for responding to violations against students by students, employees, other students, or third parties. The complete policy is available on the Hastings website. An electronic copy of the policy is e-mailed to each student at the time of orientation. A hard-copy of the policy may also be obtained from Human Resources.

Every student at Hastings has the right to pursue his/her academic or professional career in an atmosphere that is safe and free from prohibited acts of discrimination, harassment, or violence, including sexual abuse, rape, sexual assault, domestic violence, intimate-partner violence, stalking, sexual coercion, or other forms of sexual violence by or against students. Bigotry, harassment, or intimidation is particularly insidious when directed at a member or group of the Hastings community on the basis of actual or perceived age, color, creed, physical or mental disability, ethnicity, gender, gender identity or expression, marital status, national origin, race, religion, sexual orientation, military or veteran status, or any combination of these or related factors; and, to the degree it constitutes prohibited bias activity, such conduct will also not be tolerated. The occurrence of prohibited activity violates the trust that is essential to the thriving of Hastings’ academic and professional environment, threatens the well-being of UC Hastings students and ultimately undermines Hastings’ core mission.

Contained in the Policy is a detailed description of the different types of prohibited conduct and the duties that arise under the policy, including Hastings’ policy on mandatory reporting. The policy also details the procedures for filing a complaint and the options that are available prior to or in lieu of a formal complaint, including the option to seek advice or informal resolution, or to anonymously report as a “Silent Witness.” Information is provided about the possibility of limited immunity for related misconduct. Further detailed in the policy is the period of limitations for the filing of a complaint, the evidentiary standard applied in the formal investigatory process, rights of the various parties during and throughout the investigatory and appellate process, and all other aspects of the protocol governing investigation and resolution of a complaint. Finally, the policy contains a detailed list of the responsibilities of the various parties in

connection with the policy, and a list of resources for survivors and perpetrators of sexual assault/violence.

The Policy is binding upon all students of Hastings and describes processes by which redress and remediation can be provided to individuals or groups who believe they have been the victims of prohibited conduct. Where sexual misconduct is involved, the policy is presumed to supersede all other procedures and policies set forth in other Hastings policies. The Policy establishes standards and procedures for the reporting and investigation of complaints, the dispensation of disciplinary action, and the provision of information pertaining to the pursuit of criminal or other legal action, where appropriate. Members of the Hastings community who have relevant information are expected to cooperate with any investigations conducted pursuant to the Policy. Ignorance of the Policy is not an excuse for its violation. Acts in retaliation for complaints filed pursuant to the policy will not be tolerated.

Hastings will respond to the fullest extent of its authority to violations of the Policy. The Policy applies to allegations of misconduct made by or against students regardless of where the misconduct may have occurred, to the degree that the conduct giving rise to the complaint is related to Hastings' social, cultural, academic, extracurricular, educational, or professional activities. Additionally, although there is no geographical limitation to applicability of the Policy, sexual misconduct that is alleged to have occurred at a significant distance from Hastings' property may be more difficult for Hastings to investigate.

Complaints regarding inappropriate workplace conduct that is not covered by the Policy should be directed to the UC Hastings Department of Human Resources. Complaints by faculty of unlawful discrimination in reappointment, promotion, and tenure are governed by procedures set out in the UC Hastings Faculty Rules and Regulations. Complaints alleging misconduct by students that is not covered by the Policy are governed by the UC Hastings Student Conduct Code and should be directed to the Office of the Associate Academic Dean.

### **Important Information for Individuals Who May Be Victims of Sexual Assault/Violence**

If you suspect that you or someone you know may have been a victim of sexual assault, even if you are not certain, you are strongly encouraged to seek immediate assistance. Regardless of whether or not you ultimately decide to file a complaint, seeking immediate medical assistance can be critical to your own physical and mental health, and is critical to the collection of evidence, without which prosecution may not be possible. Until you obtain medical assistance, *it is imperative that you do everything you can to avoid showering, brushing your teeth, or using the toilet.* If you have already showered or

feel you cannot wait to bathe, place your clothing in a paper (not plastic) bag and bring it with you to the clinic or hospital. Seeking assistance can also help you to deal with the shock, inability to concentrate, fear, depression, self blame, guilt, and shame, that are but a few of the emotions that survivors of sexual assault/violence may experience. Assistance is also available for you to obtain important accommodations that can protect you from an unsafe environment. You do not and should not have to suffer alone.

**WHERE TO GO / WHOM TO CALL:** Assistance is available 24 hours a day, 7 days a week, from the Hastings Department of Public Safety, located on the ground floor of the 198 McAllister Street building, or by phone, at (415) 565-4611. A Public Safety Officer will be able to document your complaint and/or escort you to San Francisco General Hospital's Emergency Department, where staff are trained and certified in providing treatment to potential victims of sexual assault and/or violence. The Hastings Public Safety Officer may remain with you through as much of the process as you would like, and will be available to escort you to wherever you decide you will be staying afterwards. You may also have a friend accompany you. The Public Safety Officer can assist you in reaching out to a critical support person in your life, such as a family member, a friend, or a roommate, if that is something you would like to do, but the thought of doing so yourself feels too overwhelming. A list of external resources that are available to you as a possible survivor of sexual assault/violence is provided in Appendix D of this policy.

**WHAT YOU SHOULD EXPECT WHEN SEEKING MEDICAL TREATMENT:** Medical treatment will be able to address pregnancy prevention and prophylactic treatment for sexually-transmitted diseases, including HIV and hepatitis, as well as any bodily or psychological injury that may have resulted from the assault. You have the right to decline any or all tests and medications. A rape kit consists of a series of tests used to help collect evidence after someone has been sexually assaulted. It contains forensic equipment appropriate to detect, collect, and preserve evidence. The evidence collected may later be used in court if you decide to press charges against the person who assaulted you. It is important to know that you can have a rape kit done even if you do not yet know if you will want to report the assault to law enforcement and press charges. Having the rape kit done will preserve your options as you process what happened to you and figure out what you would like to do.

**IMPORTANT TIMELINES TO KEEP IN MIND:**

- (1) A rape kit can only be done within 5 days of the assault. Evidence degrades rapidly, and can be destroyed as a result of showering, brushing of teeth, or use of the toilet, although a rape kit is still recommended in those cases for collection of possible residual evidence.
- (2) Evidence collected during a rape kit is saved, anonymously, for 90 days, in a secure location, in order to allow you time to consider whether you would like to file a complaint with law enforcement. After 90 days, if no complaint has been filed the evidence is

destroyed.

- (3) HIV prophylactic treatment must be started within 36 hours of the assault.
- (4) Emergency birth control is most effective if started within 72 hours of the assault.
- (5) If an IUD is inserted within one week of an assault, it can help prevent pregnancy.

**Policy for Family and Medical Leaves  
Adopted by Faculty on November 3, 2017**

**Section 1: INTRODUCTION**

The University of California, Hastings College of the Law (UC Hastings) recognizes that its faculty strive to balance their work and personal lives. This policy (Policy) for faculty is designed to support these efforts, to be compassionate, and to meet the provisions of the federal Family Medical Leave Act of 1993 (FMLA) and the California Family Rights Act of 1993 (“CFRA”).

**Section II. PURPOSE**

Generally, FMLA/CFRA leave is unpaid. Pursuant to this Policy, eligible faculty members shall be entitled to one semester or two semesters of paid FMLA/CFRA leave, based upon years of service, within a ten year period under the conditions specified below.

Faculty members on paid FMLA/CFRA leave shall continue to receive group health, dental and vision insurance coverage under the same terms and conditions as if the faculty member had not taken leave, subject to §§ V and VI infra, for one or more of the following reasons:

- The birth of a child or adoption or foster care placement of a child.
- To care for an immediate family member (spouse, child or parent) with a serious health condition.
- When the faculty member is unable to work because of a serious health condition.

The statutory regulations regarding FMLA/ CFRA Military Family Leave, Qualifying Exigency Leave, and Pregnancy Disability Leave (“PDL”) are extensive and are not discussed in detail in this Policy. Due to the complexities of the laws and College policies, affected faculty members are encouraged to consult with UC Hastings Human Resources Administration so that they may be certain of the pay and benefit consequences of taking such leaves.

**Section III. FMLA/CFRA POLICY**

**A. Definitions**

1. Serious Health Condition

An illness, injury, impairment, or physical or mental condition that involves the following<sup>2</sup>:

- a. inpatient care;
- b. continuing treatment by a health care provider and any period of incapacity due to pregnancy or for prenatal care;
- c. a period of incapacity or treatment of more than three consecutive calendar days and continuing treatment by a health care provider;
- d. a period of incapacity or treatment for such incapacity due to a chronic serious health condition (e.g., asthma, diabetes, epilepsy) and continuing treatment by a health care provider;
- e. a period of incapacity that is permanent or long-term due to a condition for which treatment may not be effective (e.g., Alzheimer's, severe stroke, or the terminal stages of a disease) and continuing treatment by a health care provider; or
- f. any period of absence to receive continuing treatment by a health care provider either for restorative surgery or for a condition that would likely result in a period of incapacity of more than three consecutive calendar days in the absence of treatment (e.g., cancer, severe arthritis, and kidney disease).

#### **B. Health Care Provider**

Any doctor of medicine or osteopathy, psychiatrist, podiatrist, dentist, clinical psychologist, optometrist, nurse practitioner, nurse midwife and clinical social worker, performing within the scope of his/her practice as defined under State law. Chiropractors and Christian Science practitioners are health care providers to the extent defined under FMLA regulations. Also included is any health care provider recognized by UC Hastings' group health plan for reimbursement of services.

#### **C. Medical Certifications**

Documentation by any medical professional as provided in Section II (A) (2) above which verifies a faculty member's need for FMLA/ CFRA leave for his/

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<sup>2</sup>Cosmetic treatment (e.g., most treatments for acne or plastic surgery) are not "serious health conditions" unless inpatient hospital care is required or unless complications develop. Unless complications arise, the common cold, flu, ear aches, upset stomach, minor ulcers, headaches other than migraine, routine dental or orthodontia problems, periodontal disease, etc. are examples of conditions that do not meet the definition of serious health condition.

her own serious illness or to care for a family member. (CFRA leave for baby bonding does not require detailed medical certifications.)

Information on the certification may include:

- a. contact information for the health care provider;
- b. the date the serious health condition began and how long it may last
- c. appropriate medical facts about the condition;
- d. for leave for the employee's own serious health condition, information showing that the employee cannot perform the essential functions of the job;
- e. for leave for care of a family member, a statement of the care needed; and
- f. for intermittent leave, information showing the medical necessity for intermittent or reduced schedule leave and either the dates of any planned leave or the estimated frequency or duration of expected incapacity due to the condition.

#### **D. Domestic Partner**

Domestic partnership is defined as:

- a. A domestic partnership registered with the state of California involving same-sex couples and those opposite-sex couples where at least one party is age 62 or older.
- b. Same-gender domestic partnerships formed in another jurisdiction which has requirements substantially equivalent to California's domestic partnership requirements set forth above.
- c. A same gender domestic partnership that has not been registered with the state of California, but meets the eligibility requirements for the University of California health and welfare benefits and retirement plan, including but not limited to sharing a common residence. *See* <http://ucnet.universityofcalifornia.edu/forms/pdf/benefits-for-domestic-partners.pdf>.

## **Section IV. PROVISIONS**

### **A. Determination of Faculty Eligibility for FMLA/CFRA Leave**

A request for leave is contingent upon a determination that the faculty member is eligible for FMLA/CFRA leave. To be eligible for FMLA/CFRA leave, a faculty member must have:

1. been employed by UC Hastings for at least twelve (12) months;
2. worked at least 1,250 hours during the most recent 12-month period. Faculty on 9- or 12-month appointments are deemed to meet the 1,250-hour test. The twelve (12) workweeks is prorated for eligible part-time faculty;
3. documentation or statement of a family relationship when requesting FMLA leave to care for a seriously ill spouse, or domestic partner, or biological, or adopted, or foster child, or domestic partner's biological, or adopted, or foster child, or your or your domestic partner's parent(s); and
4. eligibility in compliance with requirements of this Policy.

### **B. FMLA/CFRA Leave Entitlement-UNPAID**

Federal law and California law entitle eligible faculty members to a total of twelve (12) workweeks of unpaid FMLA/CFRA leave during a rolling 12-month period. The rolling 12-month period is measured backward from the date a faculty member uses any FMLA leave. Each time a faculty member takes an FMLA/CFRA leave, the remaining leave entitlement is any balance of the twelve (12) work weeks that has not been used during the preceding twelve (12) months.

If the faculty member is taking FMLA leave as Military Caregiver Leave, the faculty member shall be eligible for up to 26 workweeks of leave in a single twelve (12) month leave period. If the faculty member is taking FMLA leave as Pregnancy Disability Leave, the faculty member shall be eligible for leave for the period of verified pregnancy-related disability up to four months of leave per pregnancy.

FMLA/CFRA leave may be granted for any one or more of the following reasons:

- a. to care for the faculty member's spouse, domestic partner, biological, or adoptive, or foster child, or parent, or the faculty member's domestic partner's parent, or biological, or adoptive, or foster child who has a serious health condition;

- b. to care for the faculty member's own serious health condition; or
- c. to care for and bond with a newborn child or newly placed child of adoption or foster care (maternity or paternity leave). Parents may be on leave simultaneously as long as there is a certification of the need for their care. Leave granted for this care shall be completed within twelve (12) months following the child's birth or date of placement.
- d. A faculty member who is disabled on account of pregnancy, childbirth, or related medical conditions is entitled to take PDL for the period of the actual disability up to four (4) months. A faculty member need not meet the eligibility requirements for FMLA/CFRA to be eligible for PDL.
- e. A pregnancy/childbirth-related disability leave shall be deducted from the faculty member's FMLA leave as a serious health condition. When a faculty member takes PDL and she is eligible for FMLA leave, her PDL shall be counted against her FMLA leave entitlement under the FMLA, as well as her entitlement under the PDL.
- f. PDL runs concurrently with the FMLA, it does not run concurrently with CFRA leave. The faculty member may be entitled to CFRA leave as baby-bonding leave after FMLA and PDL are exhausted.
- g. CFRA leave shall not exceed twelve (12) workweeks in a calendar year. When CFRA leave is combined with a PDL, the total FML leave shall not exceed seven months in the leave year.

**C. FMLA/CFRA Leave-PAID**

UC Hastings shall provide paid FMLA/CFRA leave for eligible faculty members, according to the schedule below one time within a ten-year period, as long as the purpose of the FMLA/CFRA leave is for any one or more of the reasons listed in Section III (B) above.

- 1. Faculty members with less than ten (10) years of service shall be entitled to one (1) semester of paid FMLA/CFRA leave within a ten (10) year period.
- 2. Faculty members with ten (10) years or more of service shall be entitled to two (2) semesters of paid FMLA/CFRA leave within a ten (10) year period. Faculty members may take one semester of leave at a time.

**D. Decanal Discretion to Award Additional Leave**

In compelling circumstances, and if both the Chancellor & Dean and Academic Dean agree, the Chancellor & Dean and Academic Dean may in their discretion award additional unpaid or paid leave to otherwise eligible faculty members.

**E. Relationship to Childbearing and Childrearing Leave**

This Document IX of our Faculty Rules and Procedures does not replace Document V, re childbearing and childrearing leave. UC Hastings provides faculty with six (6) workweeks of paid time off for maternity or paternity leave under “Document V: Policy for Childbearing and Related Leave.” Paid maternity or paternity leave (child bearing/bonding leave) run concurrently with FMLA/CFRA leave for baby bonding purposes. Compensation during paid FMLA/CFRA leave and maternity or paternity leave shall not be duplicative. Paid maternity or paternity leave may be extended to one parent when both parents are UC Hastings faculty members.

A faculty member who takes six weeks of Childbearing Leave under Document V does not automatically exhaust all of her FMLA/CFRA paid leave provided pursuant to this Document IX, unless the circumstances are such that the faculty member requests to supplement her Childbearing Leave with paid FMLA/CFRA leave under the parameters set forth in Section IIIC above.

A faculty member who is disabled because of pregnancy, childbirth or a related medical condition shall be entitled up to a maximum of four months of PDL leave PDL leave is unpaid, unless the faculty member is eligible for and requests paid FMLA leave pursuant to Section IIIC above. PDL leave runs concurrently with FMLA leave, but not CFRA leave. CFRA leave may be taken after PDL leave, granting affected faculty members up to seven (7) months of combined leave. Faculty members may be granted additional leave as a disability accommodation on a case-by-case basis after engaging in the interactive process. All practical alternatives for disability accommodation may be explored to determine that the reasonable accommodations recommended serves the operational needs of UC Hastings.

**F. Duration of Leave**

FMLA/CFRA leave time runs while classes are in session and during the exam periods consistent with the academic calendar, regardless of a faculty member’s classroom teaching schedule. Time off is reported for absences on weekdays (excluding UC Hastings holidays) during the fall or spring semesters. Leave time during semester breaks and the summer recess are not counted toward FMLA/CFRA leave. For example, if a faculty member’s FMLA/CFRA leave starts during the Spring Semester and the faculty member is not expected to return until the Fall Semester, the time off during the summer recess will not count as

FMLA/CFRA leave time.

**G. Spousal or Domestic Partner Limitation**

If either spouses or domestic partners are faculty members and are eligible for FMLA/CFRA leave, they are only entitled to a combined twelve (12) workweeks of leave taken for the following reasons:

- a. the birth of a child and bonding with the newborn child;
- b. the placement of and bonding with a child from adoption or foster care;  
and
- c. to care for a parent with a serious health condition.

**H. Intermittent or Reduced Leave Schedule**

A faculty member taking leave for his/her own serious health condition or to take care of a spouse, domestic partner, or parent, or child with a serious health condition need not take leave continuously. FMLA/CFRA leave may be taken intermittently or on a reduced leave schedule. Faculty members must provide certification of medical necessity for intermittent FMLA leave. Certification is not required for intermittent CFRA leave. A faculty member needing intermittent leave or leave on a reduced leave schedule should attempt to schedule his/her leave so as not to disrupt his/her faculty duties. Typical uses of Intermittent Leave includes time-off for medical appointments or medical treatments such as weekly chemotherapy or dialysis, regular physical therapy, or weekly counseling sessions.

For further reduced leave guidelines, refer to “Document V: Part-Time Appointment and Reduction in Percentage of Time to Accommodate Family Needs” section of the *Faculty Rules and Procedures*.

**I. Supplemental Leave**

If the need for medical leave that is in progress continues beyond twelve (12) workweeks, or 24 weeks in the case of PDL, a faculty member may be entitled to supplemental leave as a disability accommodation. Supplemental medical leave is unpaid. Supplemental medical leave may be granted as a disability accommodation on a case-by-case basis after engaging in the interactive process. All practical alternatives for disability accommodation may be explored to determine that the reasonable accommodations recommended serves the operational needs of UC Hastings.

**Section V. PROCESS**

**A. Notice to the Academic Dean and HR**

If the need for FMLA/CFRA leave is foreseeable, the faculty member must provide notice of not less than thirty (30) days before the effective date of the leave to UC Hastings through the Office of the Academic Dean and through the UC Hastings Human Resources Department. If the need for the leave is unforeseeable or notice is not feasible due to an emergency, the faculty member's request must be submitted to the College as soon as practicable; but no less than five (5) working days after learning of the event. Calling in "sick" without further information is not sufficient to place a faculty member on FMLA/CFRA leave.

Failure to comply with the notice requirements above, without a reasonable excuse for failing to provide notice, may result in the denial or postponement of FMLA leave.

The College reserves the right to place a faculty member on FMLA leave where there is reasonable belief that the faculty member cannot perform the essential job functions due to a mental or a physical incapacitation until it can be certain that the faculty member has addressed his or her medical issues and is fit to return to work. The College may consider additional leave time as a disability accommodation as applicable.

**B. Medical Certification**

A faculty member must submit a completed medical certification form to the UC Hastings Human Resources Department for FMLA for his/her own serious medical condition or to care for a family member (baby bonding CFRA does not require detailed medical certification.) A faculty member may obtain the medical certification form from the Human Resources Department or the Office of the Academic Dean. Faculty members are responsible for making sure the medical certification provided to UC Hastings is complete and sufficient.

**C. Written Notice**

When granting or denying FMLA/CFRA leave, UC Hastings will provide a faculty member with written notice detailing the specific expectations and obligations of the individual and explaining any consequences of a failure to meet these obligations.

**D. Periodic Reporting and Recertification**

Faculty members on leave may be required to report on their status and intent to return. During leave, UC Hastings may also require recertification of the medical condition that caused the faculty member to take leave when UC Hastings obtains information that casts doubt on the continuing validity of the original certification, or when the faculty member requires an extension of leave, or when circumstances have changed.

**Section VI. HEALTH PLAN AND OTHER BENEFITS DURING PAID LEAVE**

During paid FMLA/CFRA leave, UC Hastings will maintain the faculty member's health, vision, and dental insurance on the same conditions as if the faculty member had been continuously employed during the entire FMLA/CFRA leave. The faculty member's cost for insurance premiums shall be deducted from his/her paycheck.

**Section VII. HEALTH PLAN BENEFITS DURING UNPAID LEAVE**

During unpaid FMLA, CFRA, and PDL leave, a faculty member must pay his/her cost of health insurance premiums by submitting payment to the UC Hastings Human Resources Department.

**A. Timely Payment of Premiums**

UC Hastings Human Resources personnel will contact the faculty member to arrange a payment schedule for his/her share of the premiums. UC Hastings has a right to terminate health insurance coverage if the faculty member's premium payment is more than thirty (30) days late. In order to terminate a faculty member's health insurance coverage for non-payment of his/her share of the premiums, UC Hastings shall provide written notice to the faculty member of its intent to terminate the coverage, including the specified date of coverage termination, at least fifteen (15) days before coverage is to cease.

**B. Failure to Return to Work**

The faculty member will be required to reimburse UC Hastings employer's share of health insurance premiums paid on the employee's behalf during unpaid leave if the faculty member does not return to work following FMLA, CFRA, or PDL leave, or returns but fails to stay thirty (30) calendar days, for a reason other than (1) the continuation, recurrence, or onset of a serious health condition which would entitle the faculty member to FMLA, CFRA, or PDL, or (2) other circumstances beyond the faculty member's control.

**Section VIII. RETURN FROM FMLA/CFRA LEAVE**

**A. Tenure Probationary Period**

The provisions of the “Document V: Stopping the Tenure Clock” section in the *Faculty Rules and Procedures* are maintained and implemented in a manner consistent with the requirements of this Policy.

Leave taken pursuant to this Policy does not count as part of the tenure probationary period. However, a faculty member may elect, no later than (6) six months following his/her return to full-time service, to have the leave time count as part of the tenure probationary period. Such an election shall be made in writing and must be approved by the Academic Dean and the Chancellor & Dean. The faculty member’s election is irrevocable and not subject to modification.

**B. Other Benefits**

At the end of unpaid FMLA/CFRA leave, other benefits, including group life insurance, health insurance, disability insurance, and pensions must be resumed in the same manner and at same levels as provided when the leave began, and subject to any changes in benefit levels otherwise elected by the faculty member. Upon return from FMLA/CFRA leave, an individual cannot be required to requalify for any benefit enjoyed before FMLA/CFRA leave began. With respect to UC Hastings pension plans, any period of unpaid FMLA/CFRA leave will not be treated as, or counted toward, a break in service for purposes of vesting and eligibility to participate. However, unpaid FMLA/CFRA leave will not be treated as credited service for purposes of University of California Retirement Plan (UCRP) benefit accrual, vesting, and eligibility to participate.

**C. Certification Upon Return**

A faculty member returning to work because of his or her own serious health condition may be required to present written documentation from his/her attending physician that he/she is able to return to work. The certification shall only address the particular health condition that caused the faculty member’s need for FMLA or PDL leave. This certification shall not be required of faculty members taking CFRA (baby bonding leave) or intermittent medical leave. Return to work may be delayed until the required certification is furnished.

**Section IX. INTERSECTION WITH STATUTORY LEAVES**

Faculty members may be eligible for extended FMLA Military Family Leave or Qualifying Exigency Leave under certain conditions.

Military Caregiver Leave is a type of FML that an eligible faculty member may take to care for a family member who is a "covered service

member" undergoing medical treatment, recuperation or therapy for a serious injury or illness incurred in the line of duty. Also, Qualifying Exigency Leave is a type of Military FML that an eligible faculty member may take if the faculty member's spouse, domestic partner, son, daughter or parent is a military member and the employee needs to attend to any "qualifying exigency" while the military member is on covered active duty or call to covered active duty.

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**GUIDELINES FOR READMISSION**

Adopted by the Faculty on May 6, 1977

- (1) Students not meeting the required academic average for continuation as a student may, under exceptional circumstances, be recommended to remain a member of the Student Body by the Committee on Disqualified Students.
- (2) The petition of the affected student must allege and such student must be prepared to show:
  - (a) Facts clearly indicating failure to attain the necessary grade point average was not the fault of the student, but was indeed the result of special circumstances.
  - (b) Facts indicating that such special circumstances are not likely to recur.
  - (c) Facts indicating that failure to attain the necessary grade point average was not due to a lack of capacity to handle course work.
  - (d) Facts indicating a reasonable chance of graduation if readmitted.
- (3) The term "exceptional circumstances," as utilized in Paragraph I above, shall be deemed to include events of an unanticipated and drastic or extremely intense nature occurring within a short time prior to or within the examination period which clearly and substantially impair the student's ability to study and take examinations. Examples of such circumstances include serious illness or disability of the student or death, serious injury or serious illness in the student's immediate family.
- (4) The term "exceptional circumstances," as utilized in Paragraph I above, shall NOT be considered to consist of the following:
  - (a) Outside employment; an exception may be made where a good faith effort has been made to secure adequate financial aid and employment was essential for continued legal study. The circumstances justifying an exception to be determined on a case-by-case basis;
  - (b) Community, social or political activities;

- (c) Death, serious injury or serious illness of a relative not living with the student. (An exception may be permitted here where a spouse, parent, or child not living with the student is involved and where the involvement is sufficiently close to the examination period to affect, in a material way, the student's examination showing.);
  - (d) Need for student's services by relatives with the same conditions and exceptions as in (3) above, and
  - (e) Domestic discord except in cases of a spouse leaving with the child or children with need for the student to locate and protect the child, children or spouse, the event occurring at such time as to interfere with the student's doing acceptable work on examinations taken shortly thereafter.
- (5) To be readmitted, a student must convince the Committee on Disqualified Students that he or she is capable of successful completion of the curriculum.<sup>1</sup>

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<sup>1</sup> Amendment to Academic Regulations, adopted by the Faculty on May 7, 1982 .

March 29, 1988

MEMORANDUM

To: Faculty Executive Committee

From: Deans Daniel Lathrope and Mary Kay Kane

Re: Establishing proper committee jurisdiction over initial faculty appoints

It is absolutely clear that when Hastings hires new tenure-track teachers, the Appointments Committee has exclusive jurisdiction to review and recommend to the Faculty whether a particular individual should be appointed. Further, the Appointments Committee makes the sole committee determination regarding who should be invited for a visiting appointment. If visitors are untenured at their home institution, then review of their teaching and writing for purposes of deciding whether a permanent position should be offered also falls to the Appointments Committee.

A question about proper jurisdiction arises, however, when a visitor is to be evaluated for a permanent tenured or 65 Club appointment as to whether the Appointments Committee or the Rank and Tenure Committee or both must be involved in the process of review and, if so, how. Over the years different approaches have been used, with the most recent being to divide responsibility between the two committees.

After some serious reflection, we both have concluded that a two committee review is not good. It has the potential of wastefulness, in the sense that then ten people must be involved in the review process, and, more dangerously, because of misunderstandings it can result in someone falling through the cracks, or misunderstanding occurring. Thus, we would like to change this practice for the future and to make it clear that the Appointments Committee has jurisdiction over all initial appointments, whereas the Rank and Tenure Committee reviews only internal promotion and tenure decisions. Thus, a person brought here on a look-see visit would have his or her scholarship reviewed by the Appointments Committee and that same committee would arrange for teaching evaluations while here, and then would review the entire record to determine whether a permanent offer at any rank (untenured, tenured or 65 Club) should be recommended to the faculty.

We see three advantages to this system and to having the decision be within control of the Appointments Committee, rather than Rank and Tenure. First, when the

committee was originally making determinations about who to invite to visit on a look-see basis, its members would have impressed on them that they were just beginning to review that they themselves would have to complete, avoiding the possibility that two different standards are used to evaluate someone, and encouraging the Appointments Committee to look carefully. Second, this proposal avoids redundant work on the part of the committees, since the Appointments Committee must do some review of a person's record initially in order to recommend the visiting appointment. Third, since untenured faculty members are allowed to vote on initial appointments to the tenured and 65 Club faculty, and there usually is at least one untenured faculty member on the Appointments Committee, it allows that portion of the faculty to take part in the initial screening as well as review, presenting whatever views (if they are at all different from other portions of the faculty) necessary at the committee stage.

The "two-committee" practice now being followed is not any part of our by-laws, so this change would not require any faculty vote or amendment. However, to avoid confusion, we would like to have the Executive Committee's advice and recommendation that the definition of the jurisdiction of the two committee's should be interpreted as we have suggested above, with the one being dedicated to external candidates, and the other internal candidates. If the Executive Committee agrees, then it might report this advice to the faculty by way of memo so that everyone would be aware of the rules operating next academic year and thereafter.

**AMENDMENTS TO FACULTY ARTICLES OF ORGANIZATION**

February 1981 – November 2017

- February 6, 1981                      Executive Committee: Five members; elected at March meeting; take office on eight day after its election.
- Part II, section VI: Academic Dean, after consultation with Executive Committee, shall make every effort to complete faculty appointments to standing committees for next academic year before the end of classes for the second semester.
- April 10, 1981                      Committees amended to reflect faculty membership of three persons. All others retain membership of five: Financial Aid & Placement; Library; Long Range Planning.
- October 9, 1981                      Tenured faculty on leave may vote on tenure and promotion matters providing they are present to participate in the discussion at which the vote is taken.
- December 1, 1981                      Changes to the membership and responsibilities of the Admissions Process Committee.
- January 28, 1983                      Academic Dean given authority to offer one time a new course or seminar of up to three units with the advice of the chair of the Curriculum Committee to round out the teaching schedule of a full-time visiting professor.
- February 11, 1983                      Procedures and standards for sabbatical leaves established.
- April 27, 1983                      Executive Committee given authority to select when two or more sabbatical-eligible tenured faculty applicants have equal years.
- November 30, 1984                      All evaluations of the Admissions Process Committee are final and binding.

April 26, 1985	Reorganization of Academic Dean's office, from two to one Associate Academic Dean (one-year trial). This change was made permanent by approval of the faculty and board of directors in 1986.
April 4, 1986	Creation of ad hoc Faculty Clinical Programs Advisory Committee.
May 2, 1986	Relaxation of six-year eligibility tenure rule to include acceleration of tenure consideration in cases of demonstrated scholarly capacity.
May 29, 1986	Governance: <ul style="list-style-type: none"> <li>a. Chairman of Executive Committee must be a member of tenured or 65 Club faculty.</li> <li>b. Eliminate requirement that the chairman must be elected from among current members of the committee.</li> <li>c. Clarify and expand the jurisdiction of Executive Committee by empowering it to be available to advise the Dean (as well as the Academic Dean) and to represent and make recommendations to the faculty on matters related to the faculty's role in the governance of the college.</li> </ul>
April 24, 1987	Creation of permanent Scholarly Publications and Moot Court Committee. Three faculty members.
January 29, 1988	One-unit mini-courses added to curriculum.
March 25, 1988	Clinical Programs Advisory Committee empowered to assign faculty members to oversee the work of up to six students per semester, or may assign faculty up to six judicial externship narratives to read per semester.
April 22, 1988	Rules about re-petitioners to Disqualified Student Committee established.
April 29, 1988	Change name from Financial Aid and Career Services Committee to Scholarship, Financial Aid and Career

	Services Committee. Jurisdiction expanded to participate in the selection of individual scholarship recipients.
January 25, 1991	Responsibilities of Admissions Policy and Student Services Committee expanded to add deliberating during the Spring semester.
April 5, 1991	Category of Adjunct Clinical Instructors added to faculty.
April 29, 1991	Category of In-House Clinic faculty added to full-time faculty with all necessary conforming amendments.
March 27, 1992	Provision added empowering the Faculty Executive Committee to consult with the key College administrators on budget policy at least twice a year and to report back to the Faculty.
May 4, 1992	<u>Procedure for Promotion and Tenure Decisions:</u>  Evaluation of a candidate's scholarly works to include reviews by authoritative outside reviewers and all candidates to have access to their tenure file.
December 7, 1992	Provision added empowering the Faculty Executive Committee to select faculty representatives to Search Committees because of a vacancy in the Office of the Dean or the Academic Dean and to Review committees because an incumbent Dean or Academic Dean is being considered for reappointment.
February 5, 1993	Responsibilities of Admissions Policy and Student Services Committee amended to state that recommendations approved during the spring semester shall not take effect until the following academic year, "unless the faculty votes by a 2/3 majority to allow them to take effect immediately."
September 24, 1993	General and LEOP admissions process revamped.
December 6, 1993	Remove the reexamination option for disqualified students, VII (F) (2) (b) (3) and (c).

- February 25, 1994      Procedures and Standards for Decisions on Faculty Appointments and Academic Rank and Tenure, Section IIIB1, with regard to decanal appointments, deleted and replaced with new provision.
- May 2, 1994            Amend Code of Faculty Rights and Responsibilities and Procedures for Discipline and Grievances, Paragraph A-8 of Part II, Article I, Section V.
- May 2, 1994            Delete Paragraph A9, Part II, Article I, Section V of the Code of Faculty Rights and Responsibilities and Procedures for Discipline and Grievances.
- July 26, 2001           Document I, Part II, committees, add Section E, Graduate Admissions Committee; amend Section G, Committee on Disqualified Students.
- Changes to Document II, (C) Criteria for Appointment, Norms for Promotion and the Award of Tenure - Regular Faculty.
- Add to Document II, (D) Criteria for Appointment, Norms for Promotion and the Award of Tenure - In-House Clinical Faculty.
- September 2, 2003      Document I - Change all references to AASH@ to ASUCH@.
- Deletions to Part I, Section V, Tenure; removal of unnecessary duplication.
- Changes to Part II - committees; Sections II and VI - New Standing Committee appointments are made before the end of the end of the examination period of the second semester and take office on the first day after the end of the examination period in the second semester.
- Add to Section VIII.A. - Graduate Admissions; change to Section VIII - Library Committee name change; G. Change in membership of Disqualified Committee.

Document II - III. Academic Staff - Deletion of Sixty-Five Club; addition of Distinguished Faculty.

Document II - III. B. 3) - Changes to Appointment of Adjunct Instructional Staff; 4) Instructors.

Document I - Section VIII.D. Admissions Process Committee; E. Graduate Admissions Committee changed to International Programs Committee.

- April 13, 2004 Faculty Rules amended to grant clinical tenure-track and tenured faculty the same voting and faculty governance opportunities as those available to other faculty members.
- October 7, 2005 Amendment passed to remove the phrase “65 Club” from all parts of the Faculty Rules and Procedures, including the Articles of Organization of the Faculty, and appropriate grammatical changes should be made to reflect such deletion.
- February 24, 2006 Amendments to Part II of the Faculty Articles of Organization:  
(1) Reduction of Committee Sizes  
(2) Elimination of Long Range Planning and Library Committee  
(3) Creation of Placement and Clerkships Committee  
Some memberships to include “three (3) to five (5) faculty members”.  
Amendment to III. Academic Staff Appointments for Program Directors.
- November 29, 2006 Amendments to add new category called “long-term contract faculty”; amendment to move proposed Section E. (p. 30) to become Section (E) following Section I. (p. 32).
- October 2007 Changes to Admissions Policy and Scholarships Committee and LEOP Admissions Committee.
- April 29, 2008 Revised Section III (C) (1): Scholarship for Promotion and Tenure for Regular Faculty which addresses the meaning “published”.

	Revised Section III (D)(1): Scholarship for Promotion and Tenure for In-House Clinic Faculty to remove any ambiguity regarding recognition of interdisciplinary faculty scholarship and its publication in books and in journals other than law reviews.
	Added Research Leave Policy; added Policy for Childbearing & Related Leaves.
January 23, 2009	Co-authored scholarly works will be considered part of the candidate's rank and tenure file.
April 28, 2009	Appointments of Lecturers.  Modified standards and procedures for promotion and tenure of faculty.
September 18, 2009	Clarified rule on serving two consecutive terms on Executive Committee.  Changed Rank & Tenure Committee membership from five to seven tenured regular faculty.
February 26, 2010	Document V - Change to policy for Childbearing and Related Leaves, Active Service-Modified Duties (ASMD), Parental Leave without Pay.
April 2, 2010	Document II – Revisions for Stopping the Tenure Clock.
April 23, 2010	Section VIII. D. LEOP membership shall include two student alternates who are participants in LEOP.
March 21, 2011	Adoption of amendments for long-term contract faculty in Documents I, II, and IV.
March 1, 2013	Document VII – Policies and Procedures for Establishing a Research Center or Institute at UC Hastings.
July 11, 2014	Document VIII – Summary of Policy on Discrimination, Protected-Status Harassment, Sexual Harassment, and Sexual Assault and Violence Related to Students.

June 6, 2017	International Programs Committee changed to Global Programs Committee
November 3, 2017	Document IX-- Policy for Family and Medical Leaves
December 6, 2017	Document I, Part II--Educational Effectiveness Ad-Hoc Committee made into a standing Committee
December 6, 2017	Document II, added Active Sullivan Professors added to Academic Ranks
April 6, 2018	Document I, Section III, Subpart C, added voting rights for Sullivan Professors
April 6, 2018	Document I, Section II, Part 2, revised timing of Committee Appointments and Terms
April 6, 2018	Document I, Part II, Section VI, revised timing of Committee Appointments and Terms