

**UNM SCHOOL OF LAW  
FACULTY MEETING**

**Tuesday, April 29, 2008**

The meeting was called to order at 3:06 p.m.

Attendance: Megan Argo, Marsha Baum, Norman Bay, Barbara Blumenfeld, Kip Bobroff, Eileen Gauna, Erik Gerding, Laura Gómez, Steven Homer, April Land, John LaVelle, Nathalie Martin, José Martinez, Alfred Mathewson, Margaret Montoya, Jennifer Moore, Mike Norwood, Ted Occhialino, Helen Padilla, Carol Parker, Leo Romero, Suellyn Scarnecchia, Robert Schwartz, Carol Suzuki, Peter Winograd, Christine Zuni Cruz

Students: Brian Close

Staff & Sr. Admin: Sandra Bauman, Peggy Lovato, Bonnie Stepleton

I. Announcements

- a. Laura Gómez, on behalf of the pre-Dean-search committee (including Alfred Mathewson, Margaret Montoya, Marsha Baum and Scott Hughes), gave a brief overview of what the faculty could expect to be discussing in depth at the May 13 meeting. The hope is to develop an idea of where SOL would like to be in 5 years as a prelude to drafting the position description for the Dean.
- b. Leo Romero provided a brief description of his meeting with incoming Provost Suzanne Ortega and Deputy Provost Richard Holder. The Provost's office appears to be very supportive of SOL's ideas for moving forward quickly with the SOL Dean search, and will accept recommendations regarding the search committee make-up and suggestions for advertisement of the position.
- c. Scott Hughes had offered to assume the remainder of Carol Parker's term as SOL Faculty Senate representative. A motion was made and seconded to elect Professor Hughes to be SOL's representative, which passed upon a vote with five abstentions.
- d. Peter Winograd, Leo Romero and José Martinez all offered memories and descriptions of Garret Flickinger, a former faculty member who passes away recently. It was suggested that the faculty draft and approve (at the next meeting) a memorial to be presented to the family on behalf of the School of Law faculty.

II. Legal Writing Faculty Policy - Associate Dean Mike Norwood

- a. Mike Norwood distributed paper copies of the policy, which had previously been sent to faculty members via e-mail.
- b. He provided a recap of the journey towards the long-term contracts proposal provided in the policy. He reminded everyone that any decision voted upon by the faculty will still be dependent on the Provost's final approval.
- c. Associate Dean Norwood then gave a brief description of the policy, which focuses on three areas:
  - i. Standards for evaluation towards the awarding of a long-term contract.

- ii. Process for evaluation towards the awarding of a long-term contract.
- iii. "Grandfather" provisions for current legal writing faculty.
- d. Discussion was invited, which resulted in the following recommended changes to be made:
  - i. The addition of "notice" language in the event a 5-year contract is not offered.
  - ii. The addition of language describing the uniqueness of the legal writing faculty position, specifically in regards to diversity at SOL.
  - iii. The clarification that mid-step review is done by committee rather than by the dean alone.
- e. The committee's recommendation that the faculty approve the policy - with the above mentioned modifications - was voted on and passed with one abstention. (See Appendix I)

### III. Retention, Suspension and Readmission Policy - Professor April Land

- a. April Land distributed printed versions of both the current policy and the proposed changes. She announced the policy represented the input of the Academic Support committee, on whose behalf she was also presenting.
- b. She identified and described the proposed changes to the current policy.
- c. Questions were invited.
  - i. A motion was made, and seconded, as a friendly amendment, to collect data (within privacy parameters) specific to reasons why students struggle and their subsequent academic progress based on the new policy, and present it annually to the faculty.
  - ii. Additional editorial comments on the document were offered and accepted.
- d. The committee's recommendation that the faculty approve the policy - with the above mentioned modifications - was voted on and passed with one abstention. (See Appendix II)

### IV. Faculty Hiring 2008-09 - Interim Dean Leo Romero, and Associate Deans Mike Norwood and Antoinette Sedillo Lopez (absent)

- a. The question of whether or not to do faculty hiring as well as a dean search during the upcoming school year was presented.
- b. Leo Romero provided background of the current situation: Dean Scarnecchia's, Michael Browde's, and Kip Bobroff's positions all open, and the rumor of up to two retirements at the end of next school year. If no faculty searches are done next year that would mean there would be 4 - 5 vacancies to fill during the following school year.
- c. He believes it prudent to move forward with a faculty search, the questions being how many and for which positions?
- d. Both Mike Norwood and Dean Scarnecchia shared their thoughts. Discussion was then invited, during which:
  - i. A motion was made and seconded to conduct searches for two faculty hires next school year. Upon a vote the motion passed with 19 in favor, five opposed and two abstentions.
  - ii. It was decided that further discussion and hopefully decision regarding in which areas the hire(s) will occur will be on the May 13 meeting agenda.

- V. Honors and Awards - Professor Alfred Mathewson
- a. Students were asked to leave the meeting to allow for faculty to discuss and vote on student honors and awards.
  - b. Alfred Mathewson passed out the list the committee is recommending to the faculty for approval, and explained the process.
  - c. Discussion ensued, in which motions were made, seconded and voted on - with changes to the list being made based on the outcomes of the voting.
  - d. Dean Scarnecchia asked everyone to send nominations for the Dean's awards to her by Friday, May 2, 2008.

The meeting was adjourned at 5:15 p.m.

Respectfully submitted,

Sandra Bauman  
Administrative Assistant to the Dean

## Appendix I

~Draft~

### Draft Policy and Procedures for Long Term Contracts and Performance Reviews for Legal Writing Faculty

#### I. Standards for Initial Appointment of Legal Writing Faculty

Each Legal Writing Professor will be hired based upon the demonstrated potential for excellence as a teacher of legal analysis and communication, including research as it is related to legal analysis, as shown by educational achievement, prior practice of law, prior teaching, and/or other relevant achievements and skills, including capacity and/or commitment to teach students from diverse backgrounds. The Search Committee shall include at least one Legal Writing Professor.

#### II. Standards for Subsequent Appointments

For all subsequent appointments, a Legal Writing Professor must demonstrate effectiveness in the teaching of legal analysis and communication, including research as it is related to legal analysis, collegiality, and overall proficiency and professionalism. For appointment to a renewable term of five years, a Legal Writing Professor must have demonstrated sustained effectiveness as a Legal Writing Professor, must show evidence of the likelihood of continued growth as a Legal Writing Professor, should have a commitment to service, and exhibit collegiality with one's colleagues. The Legal Writing Faculty Contract Committee will make a recommendation to the Dean for such appointments (the makeup of this committee is described below).

#### III. Criteria for Review of Legal Writing Faculty

Teaching skill will be the main consideration for evaluating the performance of a Legal Writing Professor. The considerations enumerated below are the skills a reasonable review of a Legal Writing Professor's performance will consider. Legal writing faculty also have an obligation to provide appropriate service to the Law School and outside communities through committee work and other contributions to communities.

##### *1. Classroom Teaching*

The Legal Writing Professor understands that a class or series of classes may include lecture, discussion, in-class writing, small group writing, and small group brainstorming. The Legal Writing Professor exhibits a command of legal analysis, legal research as related to analysis, legal writing, advocacy and cultural competence/literacy. The Professor is focused and well prepared for class, organized and effective. The Professor defines the goals to be accomplished and incorporates effective methods of conveying those goals to the students relying on techniques appropriate for teaching writing, analysis and research.

##### *2. Designing Writing Assignments*

The Legal Writing Professor's assignments and teaching materials should intellectually challenge students. Assignments should be appropriate to the students' realistic analytical ability. Problems should be factually realistic and, if persuasive writing is required, must be well balanced.

### *3. Evaluating Student Work*

The Legal Writing Professor should be able to provide insightful, detailed critiques of student papers with written comments that diagnose writing problems without editing the student work and that prompt the student to understand steps needed to correct or improve problems. Grades on written work should be based on specific objective criteria that are conveyed to students prior to the due date of the assignment. Papers should be evaluated in terms of practical effectiveness rather than in terms of the Professor's personal preferences.

### *4. Student Conferences*

The Legal Writing Professor should demonstrate interest in students' development as legal writers, researchers, and professionals and show consistent availability to students for one-on-one and/or small group consultation regarding writing projects. The Professor should demonstrate an ability to convey important information to students in a manner that they can understand and accept and should have the ability to ask questions designed to provoke thought, and deliver in a sequence that builds on the answers to preceding questions and leads to the desired learning goal.

### *5. Relating to Students*

The Legal Writing Professor should relate constructively with students inside and outside the classroom. The Professor should provide students with fair notice of office hours and means of contacting the Professor. The Professor should seek to use teaching methods that advance learning for students from diverse backgrounds.

### *6. Course Administration*

The Legal Writing Professor should grade and return student papers in a timely fashion and before another similar assignment is due. Writing assignments that must be reviewed by the Director should be completed to allow sufficient time for such review prior to distribution of the assignment to the students.

### *7. Judgment*

The Legal Writing Professor will exercise sound judgment in all aspects of work. The Professor will demonstrate the ability to solve problems reasonably and decisively and will seek assistance from the Director or experienced colleagues when appropriate.

### *8. Team Work*

The Legal Writing Professor will be a constructive member of the Legal Writing Team and will participate in departmental meetings. The Professor will coordinate and work well with the Director, other legal writing teachers, faculty, and other members of the Law School community. The Professor will share ideas with others in the field, both internally and externally.

#### IV. A Note on Scholarship

A Legal Writing Professor is not expected to engage in published legal scholarship. However, the Dean, Director, and faculty encourage and support Legal Writing Professors who wish to engage in scholarship regarding legal writing, including publications, research and conference presentations. Legal Writing faculty may choose to engage in scholarship in subjects beyond the scope of legal research and writing. The Dean and Law School support scholarly activity of the Legal Writing faculty.

#### V. Procedures for Contract Renewal and Evaluation of Legal Writing Faculty

##### *Role of the Director of Legal Writing*

The Director of Legal Writing has the responsibility for the program and supervision of the Legal Writing faculty teaching within it.

##### *Role of the Legal Writing Faculty Contract Committee*

The Legal Writing Faculty Contract Committee will be composed of the Legal Writing Director or other senior Legal Writing Professor, and two tenured or tenure-track faculty members from the Law School faculty. The Committee shall have the responsibility of conducting the appraisal of a candidate for a mid-step and five-year contract and submitting a written report on its findings and recommendations to the Law School Committee on Retention, Promotion and Tenure for review and approval. The Dean will make an independent evaluation based on the information provided by the Legal Writing Faculty Contract Committee and the Committee on Retention, Promotion and Tenure. The Dean's decision shall be final subject to University policies regarding faculty contract renewal. If the decision is to deny a contract renewal, the Professor will be granted one additional year of service before his or her contract is terminated. Consideration of the candidate being reviewed shall include the following:

1. Student teaching evaluations from recent course[s].
2. The Curriculum Vitae of the faculty member.
3. Written evaluation by the Director and/or other Legal Writing faculty including comments following observation of one or more of the Legal Writing Professor's classes and a review of randomly selected graded assignments, as well as consideration of the review criteria set forth above.
4. Review of materials the candidate deems relevant such as individual projects, grading guidelines, teaching exercises, worksheets, research and lesson plans.
5. Meeting with the candidate.
6. Meeting with students from recent courses.
7. The review packet may also include comments from others including faculty members from other law schools.
8. When reviewing the Director, the committee will also consider the adequacy with which the Director carries out the administrative and supervisory duties connected with directing the Legal Writing Program.

##### *Initial Contract*

The initial contract for a Legal Writing Professor will be for a term of one year. This first year is considered probationary. Timing of decisions about whether to renew the contract will be made in accordance with University policy regarding faculty with the status of lecturers.

All contracts following the initial one-year contract are presumed renewable; the term of subsequent contracts will be determined using the following procedures.

#### *Annual Reviews*

The Legal Writing faculty will receive annual reviews conducted by the Dean to assure that they are meeting the standards required of Legal Writing faculty.

#### *Mid-step Renewal*

Mid-step reviews shall take place during the Legal Writing faculty member's third year of appointment and after two consecutive years of service. This review will follow the same procedure as set out for granting an initial five-year contract. If the review reveals specific correctable weaknesses, the individual will work with the Director or a mentor to create and carry out a plan for improvement in preparation for the five year appointment evaluation and review.

#### *Five Year Appointment*

The review for five-year contract appointment shall take place during the Legal Writing faculty member's fifth year or after four years of consecutive years of service.

#### *Renewal of Five-Year Contract*

The renewal of the long-term contract will be based on annual reviews of the Legal Writing Professor along with an interview of the candidate by the Legal Writing Faculty Contract Committee to be conducted during the final year of the current contract.

Evaluations and annual written reviews of the Legal Writing faculty, including the Director, that consider the review criteria set forth above are the responsibility of the Dean. The Dean, when appropriate shall consult with the Director and with the Legal Writing Faculty Contract Committee regarding annual reviews and contract renewal.

#### *Eligibility of current legal writing faculty for five-year contracts*

A member of the Legal Writing faculty who has at least five years of service is eligible to be considered for a five-year contract, pursuant to the standards and process set out in this policy, the year immediately following its adoption, and may elect to delay the review until the second year, but must be reviewed no later than that time. A member of the Legal Writing faculty who has at least three years of service will not undergo a mid-step review in the year immediately following the adoption of this policy, and will be eligible for consideration for a five-year contract during their fifth year of service in the manner described in this policy. A member of the Legal Writing faculty who has served one year will be up for mid-step review in the normal manner set out in this policy.

#### *Alternate Renewal Provision*

In appropriate circumstances a Legal Writing Professor whose years of service meet the eligibility requirements for a five-year renewal may be granted a contract for a term of less than five years. Such circumstances would include a professor whose reviews reveal significant

deficiencies that must be corrected before a five-year contract will be issued or a professor who intends to retire in less than five years.

#### VI. Early Termination of Contract

A contract may be terminated prior to the end of its term because of the termination of the Legal Writing program, or in accordance with University policy, both procedural and substantive, governing the dismissal of non-tenure track faculty. Barring exceptional circumstances, notice of termination will be provided to a professor holding a three or five year contract no later than at the start of the academic year during which the contract will expire.



## Appendix II

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POLICY ON ACADEMIC RETENTION AND SUSPENSION.  
THE CURRENT POLICY IS UNDER REVIEW BY THE FACULTY. IF THE POLICY  
CHANGES, ALL CHANGES BECOME EFFECTIVE IMMEDIATELY.

### *Maintenance of Grade Point Average*

1. To be in good academic standing with the law school, a student must maintain a cumulative grade point average of 2.00.
2. Any student whose cumulative grade point average falls below 2.00 shall either be placed on probation or suspended.

### *Automatic Probation*

1. A student whose cumulative grade point average falls within any of the following categories shall be placed on probation:

<u>Credit Hours</u>	<u>Cumulative Grade Point Average</u>
0- 16	1.67-1.99
17-38	1.84-1.99
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2. No student whose grade point average falls below 2.00 after he or she has attempted 39 credit hours shall be granted automatic probation under this section. Such student must petition the Committee on Student Suspension, Retention, and Readmission (hereinafter “Committee”) for relief from suspension in order to be granted probation.
3. A student placed or continued on automatic probation shall receive notice in writing from the Dean or the Dean’s designee that he or she has been placed or continued on probation.
4. A student on probation shall contact the Assistant Dean for Student Services to develop a plan for academic success in cooperation with the Committee on Academic Support. The Chair of Committee on Academic Support will review and approve each student’s plan for academic success. The student must follow the plan for academic success, and any other recommendations of the Committee on Academic Support, or its Chair. In addition, the Chair of the Committee on Academic Support, in consultation with Assistant Dean for Student Services, must approve the course schedule of each student, in writing, and no changes may be made to that schedule without written approval of the Chair.

5. Any student placed on academic probation is not allowed to work

### ***Suspension***

1. Any student whose grade point average falls below 2.00 and who does not qualify for automatic probation under the provisions, or who withdraws, or has been withdrawn by administrative action from law school, or fails to return for a new semester while on probation, shall be suspended. .
2. The Dean shall notify in writing any student who has been suspended. Such notice shall specify the student's right to petition for relief from suspension and shall contain a copy of this policy.
3. Any student whose grade point average falls below 1.5 in the first semester is strongly discouraged from petitioning for relief from suspension in the Spring semester.
4. A student who is suspended shall contact the Assistant Dean for Student Services to develop a plan for academic success.
5. The suspension shall become effective if no petition for relief from suspension is received within the time specified herein, or upon final action of the Committee, the Dean, or the faculty as provided herein, whichever is later.

### **Committee on Student Suspension, Retention and Readmission**

1. At the beginning of each academic year, or as soon thereafter as practicable, the Dean shall appoint a Committee on Student Suspension, Retention and Readmission (hereinafter "Committee").
2. The Committee shall be comprised as follows:
  - A. Five full-time members of the faculty;
  - B. Two students. The Dean shall appoint the student members of the Committee after consultation with the president of the Student Bar Association, student representatives, and leaders of student organizations. A student must be in good academic standing (2.00 cumulative g.p.a.) to serve on the Committee.
3. Any student who petitions for relief from suspension as provided herein shall have the right to disqualify the student members of the Committee and to have his or her petition considered by the faculty members of the Committee.

### **Petition for Relief from Suspension**

1. Any student who has received notice of suspension may submit a written petition to the Dean requesting that he or she be placed on probation. However no student who has previously filed three unsuccessful petitions for relief from suspension may file any further petitions for relief from suspension.
2. The petition shall be submitted to the Assistant Dean of Registration and Records within ten days from the date of the notice of suspension. The Dean may, for good cause, extend the time for submitting the petition.
3. Any student who fails to file such a petition within the foregoing time limits may thereafter submit such a petition no later than 45 days prior to the beginning of any semester in which he or she desires to be placed on probation.
4. The petition shall set forth the following:
  - A. Any factors that the student believes may have contributed to his or her unsatisfactory performance;
  - B. The student's assessment of the likelihood that such factors will continue in the future;
  - C. Any contemplated changes in the student's study, work or extracurricular activities which might affect his or her law school performance.
  - D. The student's plan for academic success or a statement of the reasons why the plan is not attached, and any previous plans for academic success for previous semesters.
5. The student shall sign the petition.
6. Any willful misrepresentations contained in the petition will be deemed violations of the law school honor code.

### **Consideration of Petition**

1. Upon receipt of a petition for relief from suspension, the Assistant Dean of Registration and Records shall forward it to the chair of the Committee who shall convene a meeting of the Committee as soon thereafter as practicable. The chair shall notify the student in writing of the time and place of such meeting. In addition, such notice shall advise the student that he or she may:
  - A. make a personal appearance before the Committee;
  - B. submit any additional written or documentary evidence that he or she considers relevant to the matter; and,

- C. bring any person before the Committee who the student feels can provide relevant information concerning the matter.
2. A quorum of the Committee shall consist of five members, at least one of whom shall be a student, unless the petitioning student has disqualified the student members of the Committee pursuant to paragraph three under the Committee on Student Suspension, Retention and Readmission, in which case a quorum shall consist of four members.
3. In the event the Chair is unable to assemble a quorum for the consideration of the petition, as many faculty members may serve on the Committee, on a *pro tempore* basis, as are necessary to constitute a quorum.
4. Prior to the meeting, the members of the Committee shall endeavor to consult with as many of the student's professors as possible in order to determine, *inter alia*: the student's classroom performance, attitude and attendance record, and the professors' general impressions of the student's probability of successful completion of law school.
5. The Committee shall consider the following, in addition to any other information deemed relevant by any member:
  - A. The information set forth in the student's petition;
  - B. Any additional information submitted by the student;
  - C. Any written or oral statement of any person offered by the student;
  - D. Information provided by any professor pursuant to paragraph four, *supra*;
  - E. The student's grades in all law school courses attempted;
  - F. The student's compliance with his or her plan(s) for academic success.
  - G. The extent to which the student's grades have improved or declined compared to previous semesters;
  - H. Any relevant information contained in the student's application for admission to law school, including LSAT score(s) and undergraduate record.
6. If, at the conclusion of the presentation of the foregoing information, a majority of the Committee determines that additional information is necessary to resolve the matter, the meeting will be continued pending the receipt of such additional information.

## The Committee Decision

1. Following receipt of all relevant information, the Committee shall meet in executive session to make its decision.
2. The Committee's decision shall be made by a majority of members present.
3. If a majority of Committee members present determines, on the basis of all the information presented, that the student if placed on probation is likely to complete law school successfully within a reasonable period of time, the student shall be placed on probation. The Committee shall specify that such probation shall be unconditional or subject to such conditions as the Committee deems appropriate.
4. If a majority of Committee members present determines, on the basis of all the information presented, that the student if placed on probation is not likely to complete law school successfully within a reasonable time, the student shall be or remain suspended. The Committee shall either suspend, or continue the suspension of the student indefinitely or for a specified period of time not to exceed one year.
5. In the event of a tie vote the student shall be placed on probation either unconditionally or subject to such conditions as the Committee deems appropriate.
6. The factors that have traditionally been discussed in connection with student petitions are to be considered only if they are relevant to the ultimate question of the student's successful completion of law school. The following summary of relevant considerations from past faculty deliberations on suspension questions are offered as a guide to the Committee and student petitioner:
  - A. An improvement or decline in the student's academic performance may be relevant to the extent that it indicates the cause of the student's difficulties. Improvement may in an individual case show that the student has overcome impediments in the form of inadequate preparation for law school or the adverse effects of personal difficulties encountered in an earlier semester. Conversely, a marked decline in performance from that of previous semesters may indicate that personal difficulties which are on the record were the cause in fact of the student's academic performance.
  - B. The Committee's determination of the student's successful completion of law school will require it to explore and evaluate the causes of the student's difficulties. Personal difficulties should be taken into account to the extent that the Committee is persuaded that such difficulties were a cause of the student's academic performance. The Committee must also

consider whether such personal difficulties are likely to present similar problems in the future.

- C. An explanation by the student that the inadequate performance was caused by poor study habits, poor attitude, or external commitments, presents factual questions which must be resolved by the Committee. The Committee must determine whether it is likely that such a change will be sufficient to allow the student to raise his or her grades to a passing average.
- D. The student's academic ability is always relevant to the issue of ultimate completion of law school.
- E. Use of preadmission predictors must be carefully circumscribed so as not to undercut the admissions policies of the law school. Those predictors may be relevant to a determination of whether the student has had sufficient time to adjust to the demands of law school.

### **Review of the Committee Decision**

1. A student aggrieved by the decision of the Committee may appeal such decision by filing a petition for review with the Dean within five days after notification of the Committee's decision.
2. The petition for review shall allege that the Committee's decision is clearly erroneous and shall specify the manner in which the decision is clearly erroneous.
3. The Dean shall consider the decision of the Committee to be presumptively correct. If the Dean determines that the Committee's decision is not clearly erroneous, he or she shall affirm the decision as final. If the Dean determines that the Committee's decision is clearly erroneous, he or she shall either remand the matter to the Committee for reconsideration or present the matter to the faculty for decision.
4. The faculty shall apply the standard set forth in Section 5, under Consideration of the Petition, and Section 6, under the Committee Decision in making its decision.