

UNM School of Law
Faculty Meeting
April 21, 1980

Conference Room
4:00 p.m.

MINUTES

Present: Adamson, Desiderio, J. Ellis, W. Ellis, Fink, Goldberg, Gonzales, Hart, Henry, Hermann, Kovnat, Martinez, Minzner, Muir, Norwood, Occhialino, Parnall, Romero, Schwartz, Simson, Stelzner, Teitelbaum, Utton; Student Representatives Carbajal and Otten; Camp

The meeting was called to order by the Dean; minutes of the meeting of April 7, 1980, were approved.

Reminders and announcements:

- (a) Senior picture will be taken tomorrow at 12:30;
- (b) Examination questions are to be submitted to the secretaries at least five days prior to the first exam;
- (c) Evaluation forms are available for distribution to students;
- (d) Law Day luncheon will be on May 1; the law school will cover the cost. Please see Janet McMullen if you plan to attend.
- (e) University of Rutgers Law School (Camden) and the University of San Francisco School of Law are looking for deans.

The first item of business was the petition of Jo Ann Jones to participate in the Legal Services Institute sponsored by Harvard and Northeastern Law Schools, the credits earned in the program to be applied toward her UNM law degree. Hart's motion that she be granted permission on condition that she remain in good academic standing passed.

A petition by Gary Keenan requesting a change in his grade in Evidence was distributed. Petition denied.

Dean Desiderio passed on further information regarding the budget and faculty slots. A new faculty position at the entry level is almost a certainty. Three visitor positions are confirmed: Ann Scales, Susan Stockstill, and Terry Anderson. There is one single-semester visitor position yet to be filled.

Teitelbaum, of the Curriculum Committee, continued the discussion of next year's first year offerings. Two motions were defeated: putting two sections of Criminal Procedure in the spring semester and adding a second elective in the spring. Faculty did approve a motion to add one hour to Constitutional Law and to offer one section of Criminal Procedure, both in the spring. Students must take either the Criminal Procedure that is available or one other elective.

The Ad Hoc Committee's Preamble to the Statement of Policy on Tenure and Promotion was discussed. The faculty voiced admiration for the committee's effort in drafting a supplement to the University's policy on tenure and promotion. The requirements of publishing, service, and free time were among areas approached in the ensuing discussion.

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2.

As the Awards Banquet is scheduled for just ten days hence, the faculty received the recommendations of the Honors and Awards Committee and made some decisions as to recipients of individual awards. Final program will be attached to these minutes.

A recommendation by the committee that semester relative standings be abolished will be discussed at the next faculty meeting on May 5, 1980.

Meeting adjourned.

Respectfully submitted,

Louise R. Camp

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Sec'y

THE UNIVERSITY OF NEW MEXICO

DATE: April 18, 1980

TO: The Faculty

FROM: Pamela Minzner, Chair, Ad Hoc Committee to Draft Tenure and Promotion Policies

SUBJECT: Preliminary Statement of Policy

Last September Dean Desiderio asked me to chair the above-entitled committee and appointed Professors Ellis, Hart, Martinez and Muir members. The Dean wished to bring before the faculty as soon as possible the issue of revisions in the present tenure and promotion policies. I regret that it has taken me so long to start the committee's work.

In 1975 a similarly charged committee drafted an addendum to the existing statement and brought that addendum to the faculty for action. The proposed change was discussed, some revision in the draft was suggested, but the matter was tabled indefinitely in order to deal with a more immediate concern.

Our committee has met several times and through the drafting efforts of Fred Hart and the editing efforts of the rest of the committee, we have produced a tentative policy statement. That statement is attached.

We would like to bring our statement for discussion, not action, at Monday's faculty meeting. We are interested in the faculty's reaction to the tone and substance of the statement. We imagine that the balance of the revision will largely deal with tenure and promotion procedures.

Attached also you will find copies of relevant material from the University Faculty Handbook. The committee intends that our tenure policy will supplement the main campus policy statement.

PRM

Preamble to Promotion
and Tenure Policy

The purpose of this policy is: (1) to help assure that any person who joins the University of New Mexico Law School Faculty be treated fairly in his or her employment relationship with the Law School and the University, and (2) to describe the expectations of this school regarding the performance of such faculty member. To the first end, procedures are detailed to ensure that reappointment, promotion and tenure decisions will be made fairly. To the second end, this document elaborates the University of New Mexico Faculty Handbook description of expectations in the context of the goals, missions and operation of the Law School.

The goals traditionally ascribed to a university, to transmit knowledge to future generations and to increase the store of human knowledge, are also goals of the law school. There are differences, however, between the emphasis of the law school and that of other divisions within the University, and there are additional responsibilities that must be undertaken by the sole law school within a state.

Because we are training students for a profession that deals with the lives of others, the margin for error is small. We are obligated to offer a program that equips our graduates with technical information, analytical, advocacy and other professional skills and a commitment to providing their clients with the most excellent representation possible. Further, our program ought to instill in our graduates a determination to help society's system of justice.

In teaching, there is the need to assist students in their quest for information essential to the lawyering process. There is, moreover, a need to help students develop the analytical thought process often

referred to as "thinking like a lawyer." Although much is said in derision of this expression, the phrase has meaning for those within the profession, both academicians and practitioners, and the concept has been a long-standing goal of legal education in this country. Both the case and problem methods of instruction are evidence of the concern by legal educators that students develop skills and abilities that transcend the mere accumulation of facts. The more recently developed clinical law pedagogy has no different objective.

The teaching goals of the law school cannot be achieved simply in the classroom; time spent by the faculty in education outside of the classroom is essential to the development of students into lawyers. These teaching activities take various forms, and no catalogue of them would be complete. Some examples, however, are illustrative. There are, for example, numerous co-curricular programs at the law school, e.g., law review and moot court. These are integral parts of the law school's education program, and it is expected that the faculty participate in them. It is a responsibility, for example, to serve as judge in the moot court program, and this carries with it the obligation to read and criticize student briefs, and to review critically student oral presentations. There is also the responsibility of working with students who are preparing law review articles for publication or editing the work of another. In the context of the clinical law program, those teaching clinical courses cannot be expected to be experts in every area of the law; hence, it is the responsibility of all faculty to assist students who have cases or problems in the faculty member's area of expertise.

Furthermore, it is the responsibility of the faculty to develop additional means for contact between the faculty and students in an

intellectual and professional setting. This can be done in an endless variety of ways. Courses can be structured to require papers or projects that presuppose out-of-class meetings between student and teacher. There can be established formal and informal arrangements whereby students and teachers are contributing to a research project. It can be accomplished by having special group meetings with students in conjunction with a course where special topics are discussed, or other faculty or practicing lawyers are participating.

A part of legal education that has been neglected in this country is the need to expose students to the responsibilities of membership in the profession. The law school accepts as one of its primary teaching obligations the assistance of students in developing a professional attitude. These responsibilities include the need for a lawyer to be dedicated to his client and the willingness to exert effort to better the legal system and society. Although formal courses in the profession form an essential part of a legal education, these are not sufficient. Socialization of those who are unaware of the nature of the profession is essential and this cannot be accomplished solely by classroom contact with students. Therefore, it becomes one of the essential components of the out-of-class teaching expected of faculty members.

Although the sense of professionalism must permeate the law school's program, there can be no formula for its achievement. Each faculty member is expected to stand as a role model for what he or she believes membership in the legal profession requires of an individual. Each must participate, but in his or her own unique way. Clearly, all must exhibit dedication to their obligations, a respect for the goal of achieving a better society and a willingness to expend extraordinary effort in

achieving tasks in a professional manner. Some will demonstrate this through scholarly pursuits, others by participating in social movements or in the resolution of disputes. At times, faculty will, and must, challenge authority, sometimes to the displeasure of the majority.

Since legal education should include frequent and close contact between student and teacher, all faculty are expected to interact, and in so doing to teach, outside of the classroom on a regular basis. Participation in this kind of teaching can occur in many diverse ways, and all should be recognized.

Law faculty members are expected to have abilities and interests which lead directly to research and service as members of the faculty of the only law school in the state. The immediate result of any research is to enhance the knowledge and understanding of the researcher. This is an activity that must be continually a part of a faculty member's activities in order to stay current in his or her particular teaching field. Faculty members are expected to do research for purposes of improving classroom preparation and their own command of the subject matter and also for other purposes. The end product can take numerous forms. For example, it can be for publication in a law review or journal, or as a book; the development of new teaching materials and techniques; part of a funded or unfunded research project leading to reports or monographs; in connection with pro bono lawyering either in the form of a brief, memorandum or consultation with other lawyers; as a part of the advocacy or opposition to legislation within the faculty member's area of expertise; the development of manuals and systems for use in the clinical law program; the preparation of materials for a continuing education program; or the presentation of papers within the law school

or at scholarly meetings elsewhere. All of these research activities are appropriate. All have the potential for furthering the store of knowledge. All generally tend to improve teaching and all tend to fulfill the research obligations the faculty owes the bar and the general public.

The writing of books and articles, as well as the review of current literature, has a special place of importance in the research obligations of a faculty member. This is because the law school is a part of a university and is itself an academic center. As a result, there is a justifiable expectation that law faculty will make contributions through writing published books and articles that will further the knowledge and understanding of law and the legal process. Indeed, it might be said that one of the privileges of faculty membership is the opportunity it presents for reflection on significant legal problems. This carries with it the obligation to share insights with others. Such sharing can best be accomplished through publications of significant circulation. It might also be observed that it would be strange if someone were engaged in teaching a subject for a significant length of time at the graduate-professional level without developing insights into problems that should be shared with others. The law faculty are assumed to have that capacity, and are expected to expend the effort to reduce their insights to publishable form.

Because research forms an essential component of most service performed by law faculty members, it is frequently impossible profitably to distinguish the two. There are, however, other service obligations of a different nature. Service on law school and university committees and public service in contexts not requiring legal expertise are examples. Although it is expected that faculty members will engage in such activities,

promotion, tenure or reappointment decisions will not be based solely, or even largely, on these considerations. To the extent that personal characteristics of a faculty are considered in decisions, this will be done only to the extent that those characteristics are directly related to the teaching, research and service obligations of the faculty member.

In determining whether a faculty member shall be recommended for tenure, reappointment or promotion, an evaluation will be made of his or her total contribution to the law school, and of his or her potential for future contribution to the law school. Of primary importance is the faculty member's teaching as it is described in this policy, including both in class and out of class contact with student; and the faculty member's research efforts including publications. Although no absolute rules exist in this context, it is possible to state some general guidelines that are likely to be followed.

These include an expectation that those who are asked to join this faculty have the necessary ability and motivation to fulfill the requirements of continued employment, to be granted tenure at the appropriate time, and to progress through the various academic ranks. The expectations of performance are, however, high and involve commitment to both the teaching and research purposes of this school. It is unlikely that favorable recommendations will be given except in those cases where the faculty member has participated substantially in the teaching function of the school, and has also published research in a medium that will be subject to review both inside and outside the law school.

The expectations of faculty described in this policy are applicable to all faculty members, including equally, if not more so, to those faculty who have been granted tenure and promoted to the higher ranks. Because of their experience, faculty who have remained at this school

for any extended period of time ought to be better able to contribute to the school, and have more opportunity for publication and innovative teaching. Senior faculty should also serve as role models for younger faculty, providing both example and assistance in their quest for excellence.

Finally, it might be observed that a full time appointment to this law faculty must be accepted as full time employment. Although some outside consulting and other professional activities are not only permitted but encouraged, these must never detract substantially from the faculty member's primary obligations to the law school.

EXCERPTS FROM THE UNIVERSITY OF NEW MEXICO
FACULTY HANDBOOK

Appointments and Promotions

The University's policy on appointments (including subsequent reappointments) and on promotions follows herewith. It expresses the institutional philosophy in these matters and describes the qualifications for the various ranks in terms of four major areas of consideration, together with indications of the relative importance of these areas and possible sources of information for evaluations.

APPOINTMENT AND PROMOTION POLICY

(As revised and approved by the Faculty on March 19, 1957, May 15, 1962, February 11, 1969,
and March 20, 1979)

General Introduction

Ultimate decisions in matters of appointment and promotion in rank are made on the authority of the Regents. Initial recommendations, however, are made at the departmental level (or college level where colleges are not divided into departments), although a recommendation may be submitted by any member of the faculty. These recommendations are then reviewed by the administrative officers most directly involved and are forwarded with their recommendations to the President of the University who transmits them to the Regents. Recommendations at the departmental level will be given most serious consideration in this procedure.

This document relates primarily to appointment and promotion policy, not to decisions regarding salary. Nevertheless, salary questions are inevitably involved in cases both of appointment and of promotion. However, it is expected that recommendations for appointment and promotion will be made on the basis of merit, and that salaries will be adjusted accordingly. The procedures and criteria of this policy may be used appropriately as a guide for part of the probationary reviews specified in the Policy on Academic Freedom and Tenure for faculty members in probationary status.

Recommendations for appointment also involve decisions regarding temporary or probationary status. In cases of reduction of the length of the probationary period, the matter should be clearly stated in writing and agreed to at the time of appointment. In the case of promotions of faculty members not already having tenure, tenure expectations may need to be considered, although the tenure decision is a separate matter. (See Academic Freedom and Tenure Policy.)

Bases for Appointment and Promotion

For appointment, or for promotion to a higher rank, a candidate is evaluated in terms of effectiveness in four principal areas:

1. Teaching
2. Scholarship, research, or other creative work
3. Service
4. Personal characteristics

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Not all faculty members excel in each of these areas, but distinction or promise, especially in either of the first two, constitute the chief basis for appointment and promotion. Even though teaching may be more difficult to evaluate than scholarship, research, or creative work, it should not therefore be given a place of secondary consideration in an overall rating.

The last two categories are important but normally round out and complement the qualities presented in the first two areas.

Teaching

Teaching is admittedly difficult to define precisely or to assess accurately. It is commonly considered to include a person's knowledge of the major field of study, awareness of developments in it, skill in communicating to students and in arousing their interest, ability to stimulate them to think critically, to have them appreciate the interrelationship of fields of knowledge, and to be concerned with applications of knowledge to vital human problems.

Scholarship, Research, or Other Creative Work

A faculty member's scholarship, research, and other creative work should make a contribution to the particular field of interest and serve as an indication of professional competence. The result of this kind of activity normally finds expression in publication, or other media appropriate to the field, and where appropriate, should be reflected in teaching. In no case, however, should a person's productive effort be measured by mere quantity.

Service

This term refers specifically to service to the University community, as in committee assignments. It also has reference to service to one's profession, usually identified by time and effort given to professional organizations, whether of state, regional, national, or international character. Not least of the services rendered are those which concern the civic community in which the University is located. An outstanding service record should be a positive factor in making an evaluation, but the lack of such a record should not be regarded as sufficient cause for denying an appointment or promotion.

Personal Characteristics

This category may be considered to include all traits which contribute to an individual's effectiveness as a teacher, as a leader in a professional area, and as a human being. Of primary concern here are intellectual breadth, emotional stability or maturity, and a sufficient vitality and forcefulness to constitute effectiveness. There must also be a sufficient degree of compassion and willingness to cooperate, so that an individual can work harmoniously with others while maintaining independence of thought and action. This category is so broad that flexibility is imperative in its appraisal.

Sources of Information

It is not easy to come to clear and definite decisions about the criteria on which a candidate is judged, even when the information is at hand. The suggestions which follow have been found useful and appropriate in identifying sources of information.

Teaching

1. Consult colleagues in the candidate's field and those in allied fields.
2. Seek out student opinion. In the absence of a reliable system for student evaluation, this method needs to be used with great care.
3. Direct observation of a faculty member's performance of his duties may well be included.

Scholarship, Research, or Other Creative Work

1. Seek the judgments of professional colleagues both on and off campus.
2. Assess any published material in terms of its content and in terms of the journals, or other auspices, in which it appears; or assess any creative work in terms of its public presentation and reception.
3. Evaluate the work which the candidate may do as consultant.
4. Take into consideration the papers presented at professional meetings, whether of state, regional, national, or international scope.
5. Gather reports of specific projects undertaken and ascertain the success achieved in the past as well as the prospects of success for the future. Remember that important projects may require many years before they can be presented to the public.

Service

1. An indication of service sometimes appears in biographical records. This, however, may not be the case because degrees of modesty vary.
2. In the case of new appointments, one must depend primarily upon the information obtained from letters of recommendation or other such sources.

3. For promotions, the biographical record with its annual supplements collected in the office of the Secretary of the University should constitute a fairly complete record. However, one should also consult the candidate's colleagues for additional information.

Personal Characteristics

1. Clues to traits of character may be found in the dossier of an appointee when the letters of recommendations are included.

2. For promotions, confidential reports from colleagues and others acquainted with the candidate will constitute the primary source of information regarding personal characteristics. Such reports must obviously be treated with great circumspection.

Specific Qualifications for Appointment and Promotion¹

The following statements should be looked upon as firm but not absolute guidelines governing normal promotion. Special procedures are sometimes required in unusual circumstances, where too strict adherence to the rule could well be disadvantageous to the University. Also, qualifications differ in the various fields. Customary degrees or their equivalents should be required, recognizing that these requirements differ according to the standards in the various fields.

The Junior Ranks

Instructor

This rank is most appropriate for persons beginning their teaching careers. It should be used by any department or college which finds it convenient and appropriate to include instructorships within its faculty rankings. It can also be used for persons needed to fill temporary posts under emergency conditions. Instructors are also appointed with an understanding that upon demonstration of ability or fulfillment of specified goals, they may expect advancement in rank. As with any appointment, the status should be made clear and put in writing at the time of employment.

Assistant Professor

An assistant professor should be demonstrably competent in the subject matter area of courses taught and should have indicated a serious commitment to teaching, but it need not be expected that an extensive reputation in the field has been acquired. As the assistant professor continues in this rank an effort to increase knowledge and improve teaching ability should be demonstrated, and professional presentation should be made through papers to professional organizations, through publications, or through other creative work.

As a general rule, the length of service in the rank of assistant professor before being considered for promotion to the rank of associate professor is four years. Recommendations for promotion in less time should be carefully weighed and justified by the administrative officer making such recommendation.

The Senior Ranks

Appointment or promotion to either senior rank should represent an implicit prediction on the part of the department, college, and University that the individual will continue to make sound contributions to teaching and learning. It should be made only after careful investigation of the candidate's promise in scholarship, in teaching, and in leadership and learning. By this statement is meant that serious attention must be given to the caliber of the candidate's intellectual and moral stature, for this will probably be the key factor in determining the extent to which past performance in teaching and in creative work may be expected to carry on through continuing contributions. Deans and departmental chairpersons normally will look to the senior ranks for advice and counsel regarding policy matters, including appointment and promotion. Also, services rendered to communities and agencies or organizations in the candidate's professional capacity should certainly be considered in assessing qualifications for advancement to senior ranks.

Associate Professor

The criteria for appointment or promotion to an associate professorship differ from those for a professorship in degree rather than in kind. The candidate for associate professor should offer evidence of knowledge of developments in the field of expertise and a conscientious interest in improving teaching methods. It is expected that an associate professor shall already have shown a basic general understanding with regard to a large part of the discipline. This condition implies postdoctoral research or creative work sufficient to indicate continuing interest and growth in the candidate's professional field.

As a general rule, the length of service in the rank of associate professor before being considered for promotion to full professor is five years. Recommendations for promotion in less time should be carefully weighed and justified by the administrative officer making the recommendation.

It is expected that the professor will continue to develop and mature with regard to teaching, research, and other qualities that contributed to earlier appointments. Consideration for this appointment should include particular attention to the quality and significance of contributions to the candidate's field, sensitivity and interest in the general problems of university education and their social implications, and ability to make constructive judgments and decisions in regard thereto. It should be kept in mind that the full professors are likely to be the most enduring group in the faculty and are those who will give leadership and set the tone for the entire University.

1. A person who is primarily a graduate student may not be given a faculty appointment. Such a person may be appointed as a teaching assistant or teaching associate, in accordance with Office of Graduate Studies policies.

REPORT BY HONORS AND AWARDS COMMITTEE
 RE FACULTY AWARDS FOR
 1980 AWARDS BANQUET*

Utton	<i>Outstanding Third-Year Student</i> Edward R. Ricco	Set of New Mexico Statutes from Michie Co.; Certificates from Michie & Law School
Stelzner	<i>Bureau of National Affairs Award</i> (Most scholastic improvement over three-year period) Robert J Muehlenweg	Subscription to U.S. Law Week
Kovnat	<i>Recognition of Outstanding Academic Achievement in Third-Year Class</i> (First Place) Jo Saxton Brayer (Second Place) Mary E. Boudreau (Third Place) Marilyn Mason-Plunkett	\$75 Gift Certificate and Award Certificate from Michie, and for first-place student a book award (CJS) & Law School Certificate
Occhialino	<i>Faculty Awards</i> (Outstanding contribution to the Law School community) Marilyn Mason-Plunkett Frank S. Padilla	Certificate and check (\$100)
Minzner	<i>The Jerrold L. Walden Memorial Award</i> Nancy C. Kirkwood	Certificate and check (\$100)
Hart	<i>The Moise Prize</i> (for academic excellence, aptitude & interest in judicial & legal ethics) Mario W. Mainero, Jr.	\$200 from the Sutin firm; certificate
Hermann	<i>Margaret Keiper Dailey Awards</i> Michael W. Lilley Alfred Juarez Perez	Certificate and check (\$40 each)
Dean	<i>Dean's Awards</i> Nancy S. Asbury Gloria A. Birkholz Thomas F. Blueher Stepher E. Doerr Ella J. Fenoglio Mary F. Hoffman Ellen M. Kelly Michael W. Lilley Mario W. Mainero, Jr. Elizabeth Major Lourdes A. Martinez Michael F. Menicucci Alfred Juarez Perez Lee E. Peters Norman E. Todd Gilbert Gregory Valdez Alan R. Wilson	Certificate

*All third-year students who made top grade in a course over a three-year period will be listed on a program insert. These awards will not be handed out. The Moot Court Team, Client Counseling Team and law journal staff members will be listed on the program. These achievements will not be recognized with any special award at the banquet.

Muir

*Prentice Hall Award for Academic
Excellence in Tax Courses*

Plaque

Robert J Muehlenweg

Gonzales

*For Outstanding Contribution to
Scholarship by Members of the
Third-Year Class*

Book Award (CJS)
and certificate

Jo Saxton Brayer
Patricia L. Palafox

Winograd

McCulloch, Grisham & Lawless Scholarship
(for excellence & interest in
Commercial Law)

Prize equivalent to
a one-year scholar-
ship; certificate

Robert J. Perovich

Muir

*The Ebel/Northwestern Mutual Life
Insurance Co. Estate Planning Scholarship*
(for interest & skill in estate planning)

Prize equal to a one-
semester tuition
scholarship;
certificate

Robert J Muehlenweg

Norwood

A. H. McLeod Prize
(for interest & skill in Advocacy)

Prize equal to a one-
semester tuition
scholarship;
certificate

Linda M. Davison
Michael W. Lilley

Goldberg

The Frederick M. Hart Prize
(for excellence in Commercial Law)

Certificate and
check (\$25)

Robert J. Perovich

Simson

Honors in Clinical Law

Certificate

Beatriz Valadez Ferreira
Gail Gottlieb
Margaret Leidler
Michael W. Lilley
Ruth A. Luckasson