

UNIVERSITY OF DAYTON SCHOOL OF LAW
PROMOTION, RETENTION AND TENURE POLICY

A. Introduction

1. PURPOSE

This policy establishes the criteria, standards and procedures to be used in evaluating the teaching, scholarship and service of all untenured tenure-track faculty members at the University of Dayton School of Law for the purpose of making recommendations to the Dean of the School of Law concerning the retention (contract renewal), promotion and tenure of such faculty members.

2. APPLICABILITY

This policy, and any amendments to the policy hereinafter adopted, applies to all untenured tenure-track faculty members who sign and execute a tenure-track employment contract with the University of Dayton School of Law after December 1, 2001.

3. ACCESS TO PROMOTION, RETENTION , AND TENURE FILE

An untenured tenure-track faculty member will receive a copy of the policy at the time he or she is appointed to a tenure-track position. Further, at all times, a faculty member will have full access to his or her Promotion, Retention and Tenure (PRT) file.

B. THE TIMING OF THE EVALUATIVE PROCESS

1. PHASES IN THE PROFESSIONAL DEVELOPMENT OF FACULTY MEMBERS

The School of Law recognizes three phases in the professional development of a law faculty member:

a. "CREDENTIALING PERIOD"

During the credentialing period, the faculty member develops his or her individual abilities and habits as a teacher-scholar and demonstrates himself or herself capable of assuming the role of a faculty member. Upon successfully completing the credentialing period, typically during the third year, the faculty member is promoted to associate professor.

b. "POST-CREDENTIALING PERIOD"

During the post-credentialing period, the faculty member continues to develop to his or her full potential as a teacher-scholar and becomes a full, contributing member of the Law School, University, and professional communities. Upon successfully completing the post-credentialing period, typically during and no later than the sixth year, the faculty member is awarded tenure and promoted to full professor.

c. "MATURE PERIOD"

The mature period is the balance of a faculty member's career as a member of the faculty of the School of Law. Evaluation during this period is performed by the Dean and any School of Law peer review process.

2. UNIVERSITY SCHEDULING REQUIREMENTS

In the case of a tenure-track faculty member who joins the faculty with no credit for prior service, the University of Dayton mandates that any positive recommendations for contract renewals or tenure for the tenure-track faculty member be made no later than the dates indicated on the following schedule:

Decision	Date of Decision
Renewal for 2nd year	February 15th of the faculty member's 1st year of service
Renewal for 3rd year	November 15th of the faculty member's 2nd year of service
Renewal for 4th year	May 15th of the faculty member's 2nd year of service
Renewal for 5th year	May 15th of the faculty member's 3rd year of service
Renewal for 6th year	May 15th of the faculty member's 4th year of service
Renewal for 7th year	May 15th of the faculty member's 5th year of service
Tenure	November 15th of the faculty member's 6th year of service

3. THE SCHOOL OF LAW'S SCHEDULE OF EVALUATION

To coordinate the University's evaluation schedule with the School of Law's, each faculty member's performance will be evaluated in the second, third, fifth and sixth years of the faculty member's service at the School of Law. Evaluations typically will follow this schedule:

Decision	Date of Decision
Contract Renewal for the 4 th year	May 15 th of the faculty member's 2 nd year of service
Contract Renewal for the 5 th year, Promotion to Associate Professor & Prognosis for Tenure	May 15 th of the faculty member's 3 rd year of service
Contract Renewal for the 7 th Year	Nov. 15 th of the faculty member's 5 th year of service
Tenure & Promotion to Professor	Nov. 15 th of the faculty member's 6 th year of service

Each evaluation is referred to by the year in which it is conducted. All other contract renewals during the credentialing period (contract renewals for the 2nd and 3rd years) and during the post-credentialing period (contract renewal for the 6th year) are made by the Dean using self-evaluations completed by the faculty member, any existing PRT committee report(s), and any additional evaluations or reports which the Dean sees fit to undertake or has undertaken.

4. ADJUSTMENTS TO THE SCHOOL OF LAW'S SCHEDULE OF EVALUATION

The total period of full-time service prior to the awarding of tenure (the "probationary period") will not exceed seven years, including all previous full-time service with the rank of Instructor or higher at the School of Law or at another law school. For faculty members with prior service at another law school, the probationary period may be extended to as many as four consecutive years at the University of Dayton, even if the total full-time service (at the School of Law and other law schools) thereby exceeds seven years; if the probationary period at the School of Law is to be less than seven years and therefore requires a tenure decision earlier than the fall of the sixth year, the evaluative schedule will

be adjusted by changing the date of or deleting any review required in an earlier year. The terms of any extension or contraction of the probationary period will be stated in writing at the time of the faculty member's initial appointment. Time spent on leave of absence will not count as probationary period service, unless the faculty member and the University of Dayton agree to the contrary at the time the leave is granted. Tenure typically is not granted before the time specified in this policy.

C. COMPOSITION AND DUTIES OF PROMOTION, RETENTION AND TENURE COMMITTEES

1. All tenured faculty members of the School of Law, excluding the Dean of the School of Law, are eligible to be members of a Promotion, Retention and Tenure Committee (the "PRT Committee"). During the first year of each untenured faculty member's service at the School of Law, the Dean shall appoint a PRT Committee charged with the evaluation of that particular faculty member during his or her entire untenured service at the School of Law. Each untenured faculty member's PRT Committee shall be composed of six tenured faculty members who shall continue to serve on that PRT Committee during the untenured service of the faculty member. The Dean shall fill any vacancy on a faculty member's PRT Committee. In each year in which the faculty member's PRT Committee will be evaluating the faculty member, it will select a Chairperson from among its members.

2. Each untenured faculty member's PRT Committee shall, in accordance with the criteria, standards and procedures of this policy, make recommendations to the Dean of the School of Law concerning the retention (contract renewal), promotion and tenure of that faculty member after conducting the following evaluations:

- a. the 2nd year evaluation concerning Contract Renewal for the 4th year;
- b. the 3rd year evaluation concerning Contract Renewal for the 5th year, Promotion to Associate Professor, and Prognosis for Tenure;
- c. the 5th year evaluation concerning Contract Renewal for the 7th year; and
- d. the 6th year evaluation concerning Tenure and Promotion to Professor.

D. CRITERIA FOR EVALUATION

Faculty members are evaluated on the basis of accomplishment in three areas: teaching, scholarship and service. Each PRT Committee will apply the criteria for all three areas flexibly. Some examples of this flexibility in the application of the criteria include: a faculty member who is assigned or undertakes extensive teaching responsibilities (e.g., course overloads); a faculty member who undertakes an extraordinary scholarly endeavor; or a faculty member who is assigned time-consuming administrative duties (e.g., Associate Dean or Director of the Law Clinic). In addition, the committee should always seek to identify the different aspects of a faculty member's activities; for example, the presenting of a continuing legal education program might include noteworthy teaching (the actual presentation of the program), scholarship (the preparation and distribution of well researched and insightful written materials), and service (to the University and the School of Law by enhancing its reputation, and to the legal community by enhancing the expertise of the practicing bar).

1. TEACHING

Teaching is defined as an activity that imparts substantive information or skills, including critical thinking and writing, to learners, or guides their independent studies. Teaching is usually evaluated by the assessment of teaching activity.

The most important teaching responsibility of faculty members is teaching courses in the Juris Doctor program. The quality of such efforts will be assessed by the viewing of classes (in person or on video tape) and reviews of required texts, reading assignments, examination questions and student evaluations, and other relevant indicia of teaching quality. Other important factors in the evaluation of classroom teaching will be the creativeness of the course design and teaching methods employed, the extent and quality of prepared course materials (both primary and supplementary), and the extent of the teacher's preparation efforts (including development of innovative techniques). Quantitative factors, such as the number and diversity of courses, credit hours, and students taught, also are relevant factors in the evaluation of teaching.

Other teaching activities that are appropriate for evaluation include student support activities, such as supervision of independent research projects, and counseling; non-degree teaching, such as short courses, colloquia and moot court team advising; professional education, such as continuing legal education and bar review courses; and other non-legal education, such as teaching in undergraduate or non-law graduate courses, or continuing education programs.

In assessing the overall level of an individual's teaching effectiveness, his or her teaching activities will be evaluated in terms of their quality, quantity and pattern.

2. SCHOLARSHIP

Scholarship is defined as an activity that involves thorough investigation of a subject, creative and insightful reflection about it, a material advancement in the knowledge, understanding or conceptualization of it, and high quality explication of it. Although legal scholarship often entails traditional kinds of research and publication, it is not limited to such activities, and, as used in this criterion, the term includes all forms of demonstrable activity within the above definition.

Probably the most common form of scholarship is the sort suitable for publication as treatises and casebooks, or articles, book reviews, notes and comments in law reviews. Scholarship also includes legal writing suitable for publications other than in law reviews (such as articles, book reviews, notes and comments in non-legal publications, articles in refereed journals, chapters in practitioner manuals, and articles in legal encyclopedias) and materials prepared for other audiences (briefs, pleadings, legal memoranda, bar review and continuing legal education materials, supplementary course materials, draft legislation, and preparation of bar committee reports). Other demonstrable forms of expression (such as videotapes, professional lectures, panel discussions at professional meetings and professional consulting) will be given recognition as well.

In assessing the overall level of an individual's scholarship, his or her activities will be evaluated in terms of their quality, quantity and pattern.

3. SERVICE

Service is defined as activity that advances the purposes and/or quality of the University of Dayton, the School of Law, or the legal profession. Any activity that meets this definition (whether or not specifically enumerated below) is valued. However, to be significant

enough to warrant evaluation under this criterion, service should involve the active and substantial participation of the individual. Thus, attendance at professional meetings or membership in bar associations (that is, without participation) is not of sufficient value to the University, the School, or the legal profession to warrant evaluation. The assessment of service generally entails an evaluation of the level of the individual's effort, the results of his or her activity, and the importance of the activity to the University, the School, or the legal profession.

The most common form of service is to the School of Law. Such service includes serving as a full-time administrator, serving as a part-time administrator (such as serving as law review or a moot court advisor, organizing scholarly programs, organizing programs involving outside speakers, preparation of self-studies and other elaborate reports, etc.), sponsoring law school extra-curricular activities and organizations, serving as the chair or as a member of a law school committee, coordinating interdisciplinary programs and projects, and individually developing or implementing administrative or management tools or policies on behalf of the school.

Another common form of service is to the University. Such service includes serving as the school's representative in the Academic Senate, serving as the chair or as a member of a University committee or council, sponsoring University extra-curricular activities or organizations, coordinating interschool programs and projects, and individually developing or implementing administrative or management tools or policies on behalf of the University. Public service also will be considered as University service where it relates to University interests.

Professional service includes actively serving on bar boards, councils, committees, and subcommittees at the national, state and local levels, assisting in the preparation and/or grading of bar examinations, participating in major professional conferences and programs, advising or otherwise assisting in the preparation and enactment of legislation, pro bono representation of clients, and presentation of legal materials to appropriate groups of non-lawyers.

4. TRACK-RECORD

During his or her teaching career, the faculty member is expected to establish a "track-record" of scholarship and service. A "track-record" signifies that the faculty member has engaged in scholarship and service activities on a consistent or ongoing – as contrasted to an occasional, sporadic or episodic – basis. The existence of such a "track-record" is important in that it demonstrates that the faculty member has made a long-term commitment to engage in the relevant activities, and that he or she has accepted these activities as an indispensable aspect of the life of a professional academician. For scholarship at the time of the 3rd year evaluation, for example, a track-record might be indicated by: a book; a particularly long and complex article; several jointly-authored articles; several chapters in a book or books; two or more "typical" articles; some combination of these; or some other scholarly endeavor which demonstrates more than sporadic scholarly effort. For scholarship at the time of the 6th year evaluation, the track-record should be longer and include scholarly production since the 3rd year evaluation. For service, a "track-record" indicates regular undertakings over some period of time.

E. STANDARD FOR EVALUATION

To be promoted, retained or tenured, the faculty member must achieve overall satisfactory performance taking into account each of the three areas of teaching, scholarship and

service, and must perform well in each of these areas. Satisfactory performance is that level of achievement that is expected in terms of both quantity and quality for the rank and years of service of the faculty member under consideration.

F. NATURE OF EACH EVALUATION

1. THE 2ND YEAR EVALUATION

The faculty member's PRT Committee will conduct an evaluation of the faculty member's teaching and any scholarly and service activities and assess the faculty member's overall performance in these areas since his or her appointment to the faculty. Any member of the faculty at the School of Law is permitted to submit written comments to the PRT Committee concerning the activities and performance of the faculty member being evaluated. The PRT Committee should expressly include in its report what the faculty member is doing well and any areas of deficiency. A faculty member's PRT Committee, in its report and recommendation to the Dean, should, where appropriate, include suggestions for the future mentoring of the faculty member in preparation for future evaluations.

2. THE 3RD YEAR EVALUATION

The major focus of the 3rd year evaluation is to make a recommendation for retention and promotion and to provide the faculty member with a "prognosis" for achieving tenure. There are three possible outcomes from the 3rd year evaluation:

a. "PROGNOSIS FOR TENURE IS GOOD"

A PRT Committee could conclude that the prognosis for tenure is good and therefore will recommend that the faculty member be retained and promoted. Each Committee's report should focus on what the faculty member is doing well, on any areas in which the faculty member could improve, and on how the faculty member might increase the likelihood of achieving tenure.

b. "REASON FOR SERIOUS CONCERN"

A PRT Committee could conclude that there is reason for serious concern but nonetheless recommend that the faculty member be retained and promoted because there also is reason to believe that the faculty member could achieve tenure. Each Committee's report should focus on the faculty member's areas of deficiency and include positive recommendations as to changes the faculty member should make.

c. "RECOMMEND NONRETENTION"

A PRT Committee could conclude that the prognosis for tenure is poor and recommend that the faculty member not be retained because there is insufficient reason to believe that the faculty member will achieve tenure. Each Committee's report should focus on the faculty member's areas of deficiency and why that Committee concludes that, even given two and one-half more years, the faculty member will not achieve tenure.

When making a decision during this 3rd year evaluation concerning the prognosis for tenure and whether to recommend to the Dean that the faculty member be retained and promoted, each PRT Committee will consider achievements over the faculty member's entire legal career, emphasizing especially those achievements since his or her appointment to the faculty of the School of Law. Any member of the faculty at the School of Law is permitted

to submit written comments to a faculty member's PRT Committee concerning the activities and performance of the faculty member being evaluated. A PRT Committee will expect that the faculty member will have established himself or herself as a thorough and competent classroom teacher and be able to describe to the committee his or her plans for advancing his or her classroom teaching. A PRT Committees will also expect that the faculty member will have established a track-record of well-researched, well-written and thoughtful scholarship and be able to describe to the committee the nature of his or her future scholarly endeavor(s). Finally, a PRT Committee will expect that the faculty member has performed his or her service obligations at the School of Law in a satisfactory fashion and has undertaken additional service obligations for the University and/or the legal profession.

3. THE 5TH YEAR EVALUATION

While a faculty member's PRT Committee will consider achievements over the faculty member's entire legal career, it will focus its attention on achievements since the 3rd year evaluation of the faculty member. Thus, each Committee will seek to ensure that, since the 3rd year evaluation, the faculty member has continued to develop as a teacher and a scholar and has continued to serve the School of Law, the University and the legal community. Any member of the faculty at the School of Law is permitted to submit written comments to a faculty member's PRT Committee concerning the activities and performance of the faculty member being evaluated. Where appropriate, each Committee will determine whether any deficiencies or areas of concern identified in the earlier evaluation have been satisfactorily addressed. Finally, each Committee should expressly include in its report what the faculty member is doing well and any areas of deficiency.

4. THE 6TH YEAR EVALUATION

At the end of the post-credentialing period, the faculty member is expected to have developed his or her abilities as a teacher-scholar and to have demonstrated a commitment to serving as a contributing member of the School of Law, University and legal communities during the rest of his or her professional life. Each PRT Committee will consider achievements over the faculty member's entire legal career, emphasizing especially those achievements since his or her appointment to the faculty of the School of Law. PRT Committees will expect the faculty member to be a thorough and competent classroom teacher who will continue to develop as a classroom teacher, to have a track-record of well-researched, well-written and thoughtful scholarship, to have performed his or her service obligations at the School of Law in a satisfactory fashion, and to have a track-record of public service to the University and/or the legal profession. Any member of the faculty at the School of Law is permitted to submit written comments to a faculty member's PRT Committee concerning the activities and performance of the faculty member being evaluated.

G. PROCEDURES USED IN EVALUATING A FACULTY MEMBER

1. INTRODUCTION

The Chairperson of each PRT Committee is responsible for arranging for the formal evaluation of a faculty member's teaching, scholarship, and service pursuant to this policy and for maintaining communication between the Committee and the faculty member.

2. PROCEDURES USED IN EVALUATING TEACHING

A faculty member's teaching in regular classes at the School of Law is evaluated during each semester in which his or her PRT Committee will evaluate the faculty member in order to

make a recommendation to the Dean concerning promotion, retention or tenure. Three methods may be used to evaluate a faculty member's teaching: review of student evaluations since the later of the date the faculty member joined the faculty or the last evaluation of the faculty member, personal visitation of classes by Committee members, and videotaping of classes for viewing by the Committee. The PRT Committee and the faculty member together will schedule the classes to be visited and/or videotaped. After a class has been videotaped, if the faculty member and the Committee feel that the class is not representative, another class may be videotaped; the videotape of the agreed-upon nonrepresentative class is not part of the faculty member's evaluation file. The faculty member will supply his or her PRT Committee with a copy of the material assigned to the students for any class session which is videotaped or visited, a statement of the faculty member's goals in the class, and a self-evaluation of the success of his or her efforts. In the situation where a class has been visited, rather than videotaped, Committee members visiting the class shall each write a description of the class for inclusion in the faculty member's PRT file. Each PRT Committee member should review the student evaluations, videotapes, class materials, any descriptions of classes not videotaped, and the faculty member's self-evaluations.

As to the other teaching activities the faculty member wishes his or her PRT Committee to consider, the faculty member should submit a report listing the activities to be considered, describing the activities, and suggesting a method that might be used to evaluate those activities. The faculty member may also recommend persons who the faculty member feels could independently evaluate the faculty member's other teaching activities.

3. PROCEDURES USED IN EVALUATING SCHOLARSHIP

The faculty member should supply his or her PRT Committee with all written materials the faculty member wishes to be considered as evidence of his or her achievement in scholarship, along with a report detailing the faculty member's scholarly activities. Each member of the faculty member's PRT Committee should review and evaluate all written materials submitted by the faculty member and the faculty member's report.

The faculty member's PRT Committee may choose to send the faculty member's major written scholarship to a person, or persons, outside the law school who has expertise in a field which is a central part of the published material. The outside evaluator(s) will be asked to give his or her opinion as to the quality of the written scholarship (this process has been termed "jurying"). The outside evaluator should be supplied with a statement of the criteria for scholarship as set forth in this policy. The faculty member will be consulted as to appropriate outside evaluators who might "jury" his or her published materials. The outside evaluator's response will be made available to the faculty member undergoing evaluation. Further, if a faculty member disagrees with the opinion expressed by the outside evaluator, the faculty member may have the piece reviewed by an outside evaluator or evaluators of the faculty member's choosing and the faculty member may submit any such opinion(s) to his or her PRT Committee for its consideration.

4. PROCEDURES USED IN EVALUATING SERVICE

The faculty member will submit to his or her PRT Committee a statement of his or her service, including the faculty member's own assessment of his or her service. The PRT Committee shall seek the comments, preferably in writing, of law school faculty and administrators, or any responsible person, as to the service of the faculty member. The Committee typically will consult with a faculty member about whom it will contact outside the University concerning the faculty member's service.

5. COMMITTEE CONSIDERATION AND VOTING

A quorum of each PRT Committee is a majority of its members and any business must be conducted at a meeting at which a quorum is present. Unless otherwise required by this policy, all votes of any PRT Committee shall be by a majority vote of its members. The Chairperson of any PRT Committee shall accept and tally any written absentee ballot submitted by a member of the Committee. In promotion, retention or tenure matters, only those members of a PRT Committee who have reviewed the faculty member's teaching, scholarship, and service, may vote.

In a tenure vote, an affirmative PRT Committee recommendation requires a vote of two-thirds of its members. Failure to meet the vote required for an affirmative recommendation constitutes a negative Committee recommendation.

The numerical results of the vote will be reported to the faculty member whose retention, promotion or tenure was voted on by his or her PRT Committee.

6. COMMITTEE REPORTS

a. DRAFT REPORT

A PRT Committee completes its evaluation of the faculty member by assembling all materials submitted and relied upon in a file and by preparing a draft report which contains its recommendation to the Dean and the basis and reasons for that recommendation. The faculty member is entitled to receive a copy of the draft report and to submit, in writing, any comments he or she may have on the draft report. The faculty member is entitled to meet with his or her PRT Committee to discuss the draft report. This process should be accomplished with the clear understanding that while the faculty member should have a reasonable time to review the draft report, each PRT Committee must meet its deadlines.

B. FINAL REPORT

After a PRT Committee makes a retention, promotion, or tenure decision, it will prepare a final report to the Dean that includes a statement identifying the written materials the Committee considered, a summary of any oral presentations the Committee considered, the recommendation of the Committee, and the basis and reasoning for that recommendation. A PRT Committee's final report will be communicated promptly to the Dean. At the same time, a copy of the final report, including the PRT Committee's recommendation, shall be provided to the faculty member. After receiving a copy of the final report the faculty member shall be afforded a reasonable time to prepare written comments for the Dean's consideration in making his or her final decision.

7. DEAN'S RECOMMENDATION

It is requested that the Dean prepare his or her recommendations on retention, promotion and tenure to the Vice President for Academic Affairs and Provost after taking into account the entire PRT file on the faculty member, all PRT Committee reports, and any written comments submitted by the faculty member. It is also requested that, upon making his or her recommendation, the Dean promptly inform the faculty member and his or her PRT Committee of that recommendation in writing.

8. ANNUAL DECANAL PERFORMANCE EVALUATIONS

A written copy of any decanal performance evaluation of a non-tenured tenure-track faculty member, made for any purpose, shall be included in the faculty member's PRT file at the time of the evaluation. The Dean shall redact from such evaluations only information related to the faculty member's salary.

H. MODIFICATION

This policy may be modified by an affirmative vote of at least two-thirds of the tenured faculty, excluding the Dean and those on leave or sabbatical, if written notice of the proposed modification has been given to those tenured faculty members at least five business days before the meeting at which the modification is considered.