

PROFESSIONAL FULFILLMENT WITHOUT TENURE

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Over the past two decades, I have experienced a few status changes. I started teaching as an adjunct, was hired the next year full-time as a lecturer on a one-year contract, and began shortly thereafter on a six-year track for a long-track contract and 405(c) status. A decade after earning a long-term contract, I have a sense of professional fulfillment—without a burning or even smoldering desire for tenure.

This essay is not anti-tenure. Professor Kathy Stanchi makes a strong case against 405(c) as “a pale substitute for tenure and a damaging double standard,” noting that “[c]linicians and legal writing faculty cannot even compete fairly with our peers.”¹

Without disrupting the value of tenure, this essay instead considers the perceptions of law students and the legal profession.² LWT’s 2015 statement on full citizenship concluded that full citizen rights were “necessary to ensure that law students and the legal profession benefit from the myriad perspectives and expertise that all faculty bring to the mission of legal education.”³ Apart from tenure, this essay considers seven areas of professional status that are achievable and impactful to the status of legal writing faculty. Some of these may seem more superficial than substantive, but perception matters. Although professional fulfillment will vary from professor to professor, this list resonates with me.

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¹ Kathryn Stanchi, *The Problem with ABA Standard 405(c)*, 66 J. LEGAL EDUC. 558, 558-59 (2017); see also Kathryn M. Stanchi, *Who Next, the Janitors? A Socio-Feminist Critique of the Status Hierarchy of Law Professors*, 73 UMKC L. REV. 467, 476 (2004) (“The stratification of American law school faculties is a patriarchal illegitimate status hierarchy.”).

² Tenure is not a hot topic among most law students, except perhaps a casual mention that a professor is “tenured” and thus does not care about teaching evaluations.

³ Legal Writing Institute, *The Professional Status Committee and Status-Related Advocacy*, <https://www.lwionline.org/resources/status-related-advocacy> (last visited Nov. 6, 2019).

1. Professor Title

From our email signature block to syllabi or course websites, titles matter. And those who teach legal writing are and should be called professors—not instructors or lecturers. Granted, some professors are “clinical” professors or professors “of practice.” But they are still professors. Related to the professor title is the location of faculty bios on a law school’s website, where some legal writing faculty are currently separated and denigrated. We should be included in a category with all full-time faculty, regardless of title or tenure status.

2. Office Space and/or Segregation

Legal writing faculty should not be relegated to small, windowless, basement, and other inferior offices. We have more contact with students than most faculty. Students do notice our workspace, and surroundings (including sunlight) often improve productivity. Although some law schools may have been constructed with a designated wing for legal writing faculty, many schools allow moves based on seniority, and legal writing faculty should not be excluded.

3. Legal Writing “Directors”

Surprisingly, despite frequent listserv emails about programs becoming directorless, two-thirds of legal writing programs still have a director.⁴ Law schools do not have torts or contracts directors, and legal writing faculty should not be “accountable to a higher-level faculty member,” a status that students do notice.⁵ Autonomy over course design often accompanies directorless programs. The former director of a program that went directorless aptly stated the change would allow the faculty “to be even more creative and innovative” in their teaching.⁶

⁴ *ALWD/LWI Annual Legal Writing Survey Report of the 2017-2018 Institutional Survey* 8, <https://www.lwionline.org/sites/default/files/Final%20ALWD%20LWI%202017-18%20Institutional%20Survey%20Report.pdf>.

⁵ Thomas R. Newby, *Law School Writing Programs Shouldn’t Teach Writing and Shouldn’t Be Programs*, 7 *PERSP: TEACHING LEGAL RES. & WRITING* 1 (1998).

⁶ *UMKC moves to a directorless format*, Legal Writing Prof Blog (May 31, 2013), <https://lawprofessors.typepad.com/legalwriting/2013/05/umkc-moves-to-a-directorless-format.html>.

Designating a program coordinator or a faculty member to supervise adjunct professors is understandable, but that person is not “directing” full-time colleagues and should not be called a “director.” The perception of many students and others is that legal writing faculty, unlike all the others at the law school, are less capable and thus need to be directed.

4. The Opportunity to Teach Other Courses

Legal writing is a “real” class that should not be relegated to second-class status.⁷ But those who teach legal writing often have other areas of expertise and practice experience, and law students benefit when we teach these other courses. We benefit from the opportunity to broaden our teaching horizons while teaching legal writing to a more manageable number of students with fewer conferences and papers to grade in a compressed time period.⁸

5. Compensation

At public law schools, faculty salaries are readily accessible.⁹ Some students notice. Legal writing faculty have long been paid significantly less,¹⁰ but deans can take some steps to help rectify this. For example, beginning in a period of austerity and continuing since, deans have given raises by dollar amounts (such as \$5,000) and not a percentage of salary (such as 3%), which has helped improve lower salaries.¹¹

6. Equality of Support for Scholarship and Service

Our professional development requires us to attend conferences and otherwise engage outside the walls of our law schools and in our

⁷ See generally Kristen K. Tiscione & Amy Vorenberg, *Podia and Pens: Dismantling the Two-Track System for Legal Research and Writing Faculty*, 31 COLUM. J. GENDER & L. 47, 61 (2015).

⁸ Whether we like it or not, teaching other courses also provides enhanced prestige among some students, practicing attorneys, and judges.

⁹ I would have ranked salaries higher on the list if most law schools were public. But many are private, and salaries are less accessible or not accessible.

¹⁰ Stanchi, *supra* note 1, at 477.

¹¹ Although parity of annual salaries is unlikely at many law schools in the short term, we should be treated equitably when teaching summer courses. Rather than paying a percentage of salary, faculty should be compensated based on the number of credit hours taught.

cities. Legal writing faculty should have the same professional development funds for travel and professional memberships. We should be given a stipend of the same amount when we write scholarship. Scholarship should be broadly defined as enhancing a national reputation in whatever field one chooses to focus. After all, “legal writing scholars are likely to write more and find greater satisfaction in scholarship if they write to please themselves. Intrinsically motivated scholarship is more likely to be creative and complete.”¹² When we write, we should have an opportunity for a research leave pre-long-term-contract and sabbaticals or similar leaves after earning the contract.

7. Significant Governance Role

Legal writing faculty must have a voice in the important matters of faculty governance, which includes service on and chairing important committees. Although a heavy service load may be challenging mid-semester when faced with thirty or more student conferences or memos to grade, faculty earn respect from hard and thoughtful work on committees. As we earn the respect of administrators and colleagues, we are often asked to do more.

I am professionally content in these seven categories—largely because of deans who have valued the contributions of the legal writing faculty and taken what might seem like relatively small steps toward equality. Focusing on the positive, I am a “professor”¹³ who is not “directed” and can choose just about any office (based on seniority) when a colleague leaves the law school. I am not paid the same as a tenured faculty member, but significant efforts have been made to close the gap, and I am eligible for the same research support and professional development funds as other faculty. When someone outside of academia asks why my title includes “clinical,” I explain that we are evaluated on teaching and service but not scholarship. Nevertheless, I am provided support to write what I want, including more practical scholarship. And I have plenty of meaningful service work, for which I have been twice awarded the law school’s Faculty

¹² Linda L. Berger, Linda H. Edwards & Terrill Pollman, *The Past, Presence, and Future of Legal Writing Scholarship: Rhetoric, Voice, and Community*, 16 LEGAL WRITING: J. LEGAL WRITING INST. 521, 545 (2010).

¹³ Admittedly, some law schools are part of broader universities that may have idiosyncratic rules or designations for faculty titles. But “professor,” whether with a “clinical” or “of practice” qualifier, is generally feasible—or a push to change is warranted.

Leadership Award and have been elected on several occasions to the Executive Committee.

Some areas for improvement still exist. Although I have a vote on decanal reviews and hiring, I cannot vote on new tenure-track hires or on tenure decisions. But the lack of a vote on tenure-track hires, especially in an era of relatively few hires at many schools, is a very small piece of “governance rights.” Two years ago, I was appointed to the Faculty Recruitment Committee, which was hiring faculty to teach both legal writing and casebook courses. Although I had no vote on the casebook hire, I agreed to serve as chair, recognizing the importance of our voice in the process.

Despite the occasional lack of a vote, I do have a voice. I can attend interviews and discuss a candidate at a faculty meeting. I may even agree to review a candidate’s article. The inability to cast a vote on these few hires or promotions is not “necessary to ensure that law students and the legal profession” benefit from a wide array of perspectives.¹⁴

Ultimately, professional fulfillment cannot be distilled to a list and varies significantly from professor to professor. We want to feel good about going to work in the morning, which requires that we feel respected—by our students, the legal community, and our colleagues. Tenure might bring that respect, but it is not the only path. We should not let an ultimate goal of tenure diminish or discourage important smaller steps toward professional fulfillment.

¹⁴ See Legal Writing Institute, *supra* note 3.