

Co-Presidents
Olympia Duhart
Ruben Garcia

Past Presidents
Norman Dorsen
Howard Lesnick
David Chambers
George Alexander
Wendy Williams
Rhonda R. Rivera
Emma Coleman Jordan
Charles Lawrence
Howard Glickstein
Sylvia Law
Patricia A. Cain
Jean C. Love
Linda Greene
Phoebe Haddon
Stephanie Wildman
Carol Chomsky
Margaret Montoya
Paula Johnson
Michael Rooke-Ley
José Roberto Juárez, Jr.
Holly Maguigan
Eileen Kaufman
Tayyab Mahmud
Margaret Martin Barry
Deborah Waire Post
Raquel Aldana
Steve Bender
Jackie Gardina
Ngai Pindell

Board of Governors
Wendi Adelson
Deleso Alford
Claudia Angelos
Elvia Arriola
Deepa Badrinarayana
Emily Benfer
Barbara Bernier
Pat Broussard
Kim Chanbonpin
Douglas Colbert
Benjamin Davis
Brooks Holland
Peter Joy
Margaret Kwoka
Beth Lyon
Karla McKanders
Beverly Moran
Peter Nicolas
Hari Osofsky
Marc Poirier
Sara Rankin
Denise Roy
Robin Runge
Natsu Taylor Saito
Colleen Shanahan
Mark Sidel
Aviam Soifer
Spearlt
Amy Vorenberg
Kaimipono Wenger

Equalizer Editor
Raleigh Levine
Treasurer
Patricia A. Cain
CLEA Liaison
Ian Weinstein
Secretary
Adele Morrison

SALT - Society of American Law Teachers

William S. Boyd School of Law, UNLV
Box 451098
4505 S. Maryland Parkway
Las Vegas, NV 89154-1098
www.saltlaw.org

COMMENT OF SOCIETY OF AMERICAN LAW TEACHERS ON ALTERNATIVES TO ACCREDITATION STANDARD 405

The Society of American Law Teachers (SALT) is an organization of law teachers, with members in almost every law school in the country and from all parts of the legal academy, whose mission embraces social justice, diversity, and excellence in legal education. We write with a comment on the alternatives proposed for Standard 405 on Professional Environment. In short, we think the two proposals are in reality identical, though they have the appearance of difference, and neither of them is acceptable. Both would vitiate the current requirement that full-time law faculty (except for legal writing faculty) have security of position that allows them to exercise their responsibilities to students and to the profession with the freedom those responsibilities demand.

Rather than repeat the general arguments we have made during the development of the proposed alternatives, we append to this statement our letter of September 27, 2013, in which we addressed the critical importance of tenure for faculty to allow them to “discuss complex and controversial problems; to explore these problems in an experiential setting; to use the rules of law but also to question them; and to combine traditional and new approaches to pedagogy.” As noted in that letter, it is security of position—real security of position—that makes this innovation and critical inquiry possible. Tenure is not a life-time contract that stifles creativity; it is a commitment of a law school to allow a critical range of inquiry and experimentation to full-time faculty who have dedicated their professional lives to educating students and expanding legal knowledge and understanding and, through the process of achieving tenure or security of position, have proved their ability and willingness to contribute to that enterprise. That mutual commitment should be supported, not undermined.

Alternative 2 requires only that a law school maintain conditions adequate to attract and retain a competent full-time faculty sufficient to permit the law school to comply with the standards, clearly rejecting any requirement of security of position. Alternative 1 would require that all full-time faculty have a form of security of position sufficient to ensure academic freedom and to attract and retain a competent full-time faculty, but because of the elimination from the circulated draft of the language specifying a minimum requirement for such security of position (5-year presumptively renewable contracts), Alternative 1 offers only lip service to security of position. Alternative 1 is virtually identical to the provisions applicable under the current standards to legal writing faculty, and it is clear from their experience that the requirements stated in Alternative 1 offer no real protection.

We applaud the changes in the proposed drafts that clarify and strengthen the commitment to academic freedom and substantial governance roles for all faculty, and we ask that those aspects of the changes be retained. We support the proposal by the Clinical Legal Education Association (CLEA) in its statement of January 27, 2014, to retain the current Standard 405 but improve it with provisions that address those shortcomings of the current rule. As noted in the CLEA statement, the Standards should strengthen, not undermine, the role of the very faculty who are most able to lead law school efforts to further experiential education.

In the name of greater flexibility for law school administrators, the proposed standard would backtrack on progress made in the status of clinical faculty, and would undermine the ability of all faculty to both serve their students and help strengthen and transform legal education. At the very least, any standard adopted should retain the current statement that five-year presumptively renewable contracts are the minimum necessary to satisfy the requirement of security of position sufficient to protect academic freedom, governance rights, and attracting and retaining a competent faculty. We urge the Council to reject both alternatives to 405 that have been proposed, and suggest that the best path is to retain the current standard with the changes CLEA has proposed.

Submitted on behalf of the Society of American Law Teachers by



Olympia Duhart
Co-President



Ruben Garcia
Co-President