



Statement of Good Practices by Law Professors in the Discharge of Their Ethical and Professional Responsibilities

American law professors typically are members of two professions and thus should comply with the requirements and standards of each. Law professors who are lawyers are subject to the law of professional ethics in force in the relevant jurisdictions. Non-lawyers, in turn, should be guided by the norms associated with their disciplines. In addition, as members of the teaching profession, all law faculty members are subject to the regulations of the institutions at which they teach and to guidelines that are more generally applicable, such as the Statement of Professional Ethics of the American Association of University Professors (*see Appendix D*).

This statement does not diminish the commands of other sources of ethical and professional conduct. Instead, it is intended to provide general guidance to law professors concerning ethical and professional standards both because of the intrinsic importance of those standards and because law professors serve as important role models for law students. In the words of the American Bar Association's Commission on Professionalism, since “the law school experience provides the student’s first exposure to the profession and . . . professors inevitably serve as important role models for students, . . . the highest standards of ethics and professionalism should be adhered to within law schools.”¹

Law professors’ responsibilities extend beyond the classroom to include out of class associations with students and other professional activities. Members of the law teaching profession should have a strong sense of the special obligations that attach to their calling. They should recognize their responsibility to serve others and not be limited to pursuit of self-interest. This general aspiration cannot be achieved by edict, for moral integrity and dedication to the welfare of others cannot be legislated. Nevertheless, a public statement of good practices concerning ethical and professional responsibility can enlighten newcomers and remind experienced teachers about the basic ethical and professional tenets—the ethos—of their profession.

¹ “. . . In the spirit of Public Service”: A Blueprint for the Rekindling of Lawyer Professionalism 19 (1986).

Although the norms of conduct set forth in this Statement may be relevant when questions concerning propriety of conduct arise in a particular institutional context, the statement is not promulgated as a disciplinary code. Rather, the primary purpose of the Statement-couched for the most part in general aspirational terms-is to provide

guidance to law professors concerning their responsibilities (1) to students, (2) as scholars, (3) to colleagues, (4) to the law school and university at which they teach, and (5) to the bar and the general public.

I. RESPONSIBILITIES TO STUDENTS

As teachers, scholars, counselors, mentors, and friends, law professors can profoundly influence students' attitudes concerning professional competence and responsibility. Professors should assist students to recognize the responsibility of lawyers to advance individual and social justice.

Because of their inevitable function as role models, professors should be guided by the most sensitive ethical and professional standards.

Law professors should aspire to excellence in teaching and to mastery of the doctrines and theories of their subjects. They should prepare conscientiously for class and employ teaching methods appropriate for the subject matters and objectives of their courses. The objectives and requirements of their courses, including applicable attendance and grading rules, should be clearly stated. Classes should be met as scheduled or, when this is impracticable, classes should be rescheduled at a time reasonably convenient for students, or alternative means of instruction should be provided.

Law professors have an obligation to treat students with civility and respect and to foster a stimulating and productive learning environment in which the pros and cons of debatable issues are fairly acknowledged. Teachers should nurture and protect intellectual freedom for their students and colleagues. If a professor expresses views in class that were espoused in representing a client or in consulting, the professor should make appropriate disclosure.

Evaluation of student work is one of the fundamental obligations of law professors. Examinations and assignments should be conscientiously designed and all student work should be evaluated with impartiality. Grading should be done in a timely fashion and should be consistent with standards recognized as legitimate within the university and the profession. A student who so requests should be given an explanation of the grade assigned.

Law professors should be reasonably available to counsel students about academic matters, career choices, and professional interests. In performing

this function, professors should make every reasonable effort to ensure that the information they transmit is timely and accurate. When in the course of counseling a law professor receives information that the student may reasonably expect to be confidential, the professor should not disclose that information unless required to do so by university rule or applicable law. Professors should inform students concerning the possibility of such disclosure.

Professors should be as fair and complete as possible when communicating evaluative recommendations for students and should not permit invidious or irrelevant considerations to infect these recommendations. If information disclosed in confidence by the student to the professor makes it impossible for the professor to write a fair and complete recommendation without revealing the information, the professor should so inform the student and refuse to provide the recommendation unless the student consents to full disclosure.

Discriminatory conduct based on such factors as race, color, religion, national origin, sex, sexual orientation, disability or handicap, age, or political beliefs is unacceptable in the law school community. Law professors should seek to make the law school a hospitable community for all students and should be sensitive to the harmful consequences of professorial or student conduct or comments in classroom discussions or elsewhere that perpetuate stereotypes or prejudices involving such factors. Law professors should not sexually harass students and should not use their role or position to induce a student to enter into a sexual relationship, or to subject a student to a hostile academic environment based on any form of sexual harassment.

Sexual relationships between a professor and a student who are not married to each other or who do not have a preexisting analogous relationship are inappropriate whenever the professor has a professional responsibility for the student in such matters as teaching a course or in otherwise evaluating, supervising, or advising a student as part of a school program. Even when a professor has no professional responsibility for a student, the professor should be sensitive to the perceptions of other students that a student who has a sexual relationship with a professor may receive preferential treatment from the professor or the professor's colleagues. A professor who is closely related to a student by blood or marriage, or who has a preexisting analogous relationship with a student, normally should eschew roles involving a professional responsibility for the student.

II. RESPONSIBILITIES AS SCHOLARS

A basic responsibility of the community of higher education in the United States is to refine, extend, and transmit knowledge. As members of that community, law professors share with their colleagues in the other disciplines the obligation to discharge that responsibility. Law schools are required by accreditation standards to limit the burden of teaching so that professors will have the time to do research and to share its results with others. Law schools also have a responsibility to maintain an atmosphere of freedom and tolerance in which knowledge can be sought and shared without hindrance. Law professors are obligated, in turn, to make the best and fullest use of that freedom to fulfill their scholarly responsibilities.

In teaching, as well as in research, writing, and publication, the scholarship of others is indispensable to one's own. A law professor thus has a responsibility to be informed concerning the relevant scholarship of others in the fields in which the professor writes and teaches. To keep current in any field of law requires continuing study. To this extent the professor, as a scholar, must remain a student. As a corollary, law professors have a responsibility to engage in their own research and publish their conclusions. In this way, law professors participate in an intellectual exchange that tests and improves their knowledge of the field, to the ultimate benefit of their students, the profession, and society.

The scholar's commitment to truth requires intellectual honesty and open-mindedness. Although a law professor should feel free to criticize another's work, distortion or misrepresentation is always unacceptable. Relevant evidence and arguments should be addressed. Conclusions should be frankly stated, even if unpopular.

When another's scholarship is used – whether that of another professor or that of a student – it should be fairly summarized and candidly acknowledged. Significant contributions require acknowledgement in every context in which ideas are exchanged. Publication permits at least three ways of doing this: shared authorship, attribution by footnote or endnote, and discussion of another's contribution within the main text. Which of these will suffice to acknowledge scholarly contributions by others will, of course, depend on the extent of the contribution.

A law professor shall disclose the material facts relating to receipt of direct or indirect payment for, or any personal economic interest in, any covered activity that the professor undertakes in a professorial capacity. A professor is deemed to possess an economic interest if the professor or an immediate family member may receive a financial benefit from participation in the covered activity. Disclosure is not required for normal academic compensation, such as salary, internal research grants, and honoraria and compensation for travel expenses from academic institutions, or for book royalties. Disclosure is not required for funding or an

economic interest that is sufficiently modest or remote in time that a reasonable person would not expect it to be disclosed. Disclosure of material facts should include: (1) the conditions imposed or expected by the funding source on views expressed in any future covered activity; and (2) the identity of any funding source, except where the professor has provided legal representation to a client in a matter external to legal scholarship under circumstances that require the identity to remain privileged under applicable law. If such a privilege prohibits disclosure the professor shall generally describe the interest represented.

A law professor shall also disclose the fact that views or analysis expressed in any covered activity were espoused or developed in the course of either paid or unpaid representation of or consultation with a client when a reasonable person would be likely to see that fact as having influenced the position taken by the professor. Disclosure is not required for representation or consultation that is sufficiently remote in time that a reasonable person would not expect it to be disclosed. Disclosure should include the identity of any client, where practicable and where not prohibited by the governing Code or Rules of Professional Conduct. If such Code or the Rules prohibit a professor from revealing the identity of the client, then the professor shall generally describe the client or interest represented or both. Covered activities include any published work, oral or written presentation to conferences, drafting committees, legislatures, law reform bodies and the like, and any expert testimony submitted in legal proceedings. A law professor should make, to the extent possible, all disclosures discussed in this policy at the earliest possible time. The earliest possible time should be when the professor is invited to produce the written work for publication or to make a presentation or when the professor submits the written work for publication or delivers the presentation.

III. RESPONSIBILITIES TO COLLEAGUES

Law professors should treat colleagues and staff members with civility and respect. Senior law professors should be particularly sensitive to the terms of any debate involving their junior colleagues and should so conduct themselves that junior colleagues will understand that no adverse professional consequences would follow from expression of, or action based upon, beliefs or opinions contrary to those held by the senior professor.

Matters of law school governance deserve the exercise of independent judgment by each voting member of the faculty. It is therefore inappropriate for a law professor to apply any sort of pressure other than persuasion on the merits in an effort to influence the vote of another member of the faculty.

Law professors should comply with institutional rules or policies requiring confidentiality concerning oral or written communications. Such rules or policies frequently will exist with respect to personnel matters and evaluations of student performance. If there is doubt whether such a rule or policy is in effect, a law

professor should seek clarification. An evaluation made of any colleague for purposes of promotion or tenure should be based exclusively upon appropriate academic and service criteria fairly weighted in accordance with standards understood by the faculty and communicated to the subject of the evaluation.

Law professors should make themselves reasonably available to colleagues for purposes of discussing teaching methods, content of courses, possible topics of scholarship, scholarly work in progress, and related matters. Except in rare cases and for compelling reasons, professors should always honor requests from their own law schools for evaluation of scholarship in connection with promotion or tenure decisions.

Law professors should also give sympathetic consideration to similar requests from other law schools.

As is the case with respect to students (Part I), sexual harassment, or discriminatory conduct involving colleagues or staff members on the basis of race, color, religion, national origin, sex, sexual orientation, disability or handicap, age, or political beliefs is unacceptable.

IV. RESPONSIBILITIES TO THE LAW SCHOOL AND UNIVERSITY

Law professors have a responsibility to participate in the governance of their university and particularly the law school itself. Although many duties within modern universities are assumed by professional administrators, the faculty retains substantial collective responsibility to provide institutional leadership. Individual professors have a responsibility to assume a fair share of that leadership, including the duty to serve on faculty committees and to participate in faculty deliberations.

Law professors are frequently in demand to participate in activities outside the law school. Such involvement may help bring fresh insights to the professor's classes and writing. Excessive involvement in outside activities, however, tends to reduce the time that the professor has to meet obligations to students, colleagues, and the law school. A professor thus has a responsibility both to adhere to a university's specific limitations on outside activity and to assure that outside activities do not significantly diminish the professor's availability to meet institutional obligations. Professors should comply with applicable laws and university regulations and policies concerning the use of university funds, personnel, and property in connection with such activities.

When a law professor resigns from the university to assume another position, or seeks a leave of absence to teach at another institution, or assumes a temporary position in practice or government, the professor should provide reasonable advance notice. Absent unusual circumstances, a professor should adhere to the dates established in the Statement of Good Practices for the Recruitment of and

Resignation by Full-Time Faculty Members of the Association of American Law Schools (*see Appendix II*).

Although all law professors have the right as citizens to take positions on public questions, each professor has a duty not to imply that he or she speaks on behalf of the law school or university. Thus, a professor should take steps to assure that any designation of the professor's institution in connection with the professor's name is for identification only.

V. RESPONSIBILITIES TO THE BAR AND GENERAL PUBLIC

A law professor occupies a unique role as a bridge between the bar and students preparing to become members of the bar. It is important that professors accept the responsibilities of professional status. At a minimum, a law professor should adhere to the Code or Rules of Professional Conduct of the state bars to which the law professor may belong. A law professor may responsibly test the limits of professional rules in an effort to determine their constitutionality or proper application. Other conduct warranting discipline as a lawyer should be a matter of serious concern to the professor's law school and university.

One of the traditional obligations of members of the bar is to engage in uncompensated public service or pro bono legal activities. As role models for students and as members of the legal profession, law professors share this responsibility. This responsibility can be met in a variety of ways, including direct client contact through legal aid or public defender offices (whether or not through the law school), participating in the legal work of public interest organizations, lecturing in continuing legal education programs, educating public school pupils or other groups concerning the legal system, advising local, state and national government officials on legal issues, engaging in legislative drafting, or other law reform activities.

The fact that a law professor's income does not depend on serving the interests of private clients permits a law professor to take positions on issues as to which practicing lawyers may be more inhibited. With that freedom from economic pressure goes an enhanced obligation to pursue individual and social justice.

Adopted 11/89 by the AALS Executive Committee; adopted by JMLS Assembly 2/12/91; amended statement adopted 5/2003 by the AALS Executive Committee; adopted as amended by the JMLS Assembly 4/2/12.

Appendix I: AAUP Statement on Professional Ethics

(referenced in 2003 AALS Statement of Good Practices by Law Professors in the Discharge of their Ethical and Professional Responsibilities)

Appendix I: AAUP Statement on Professional Ethics (referenced in 2003 AALS Statement of Good Practices by Law Professors in the Discharge of their Ethical and Professional Responsibilities)

The statement that follows was originally adopted in 1966. Revisions were made and approved by the Association's Council in 1987 and 2009.

I. Introduction

From its inception, the American Association of University Professors has recognized that membership in the academic profession carries with it special responsibilities. The Association has consistently affirmed these responsibilities in major policy statements, providing guidance to professors in such matters as their utterances as citizens, the exercise of their responsibilities to students and colleagues, and their conduct when resigning from an institution or when undertaking sponsored research. The Statement on Professional Ethics that follows sets forth those general standards that serve as a reminder of the variety of responsibilities assumed by all members of the profession.

In the enforcement of ethical standards, the academic profession differs from those of law and medicine, whose associations act to ensure the integrity of members engaged in private practice. In the academic profession the individual institution of higher learning provides this assurance and so should normally handle questions concerning propriety of conduct within its own framework by reference to a faculty group. The Association supports such local action and stands ready, through the general secretary and the Committee on Professional Ethics, to counsel with members of the academic community concerning questions of professional ethics and to inquire into complaints when local consideration is impossible or inappropriate. If the alleged offense is deemed sufficiently serious to raise the possibility of adverse action, the procedures should be in accordance with the 1940 Statement of Principles on Academic Freedom and Tenure, the 1958 Statement on Procedural Standards in Faculty Dismissal Proceedings, or the applicable provisions of the Association's Recommended Institutional Regulations on Academic Freedom and Tenure.

The Statement

1. Professors, guided by a deep conviction of the worth and dignity of the advancement of knowledge, recognize the special responsibilities placed upon them. Their primary responsibility to their subject is to seek and to state the truth as they see it. To this end professors devote their energies to developing and improving their scholarly competence. They accept the obligation to exercise critical self-discipline and judgment in using, extending, and transmitting knowledge. They practice intellectual honesty. Although professors may follow subsidiary interests, these interests must never seriously hamper or compromise their freedom of inquiry.
2. As teachers, professors encourage the free pursuit of learning in their students. They hold before them the best scholarly and ethical standards of their discipline. Professors demonstrate respect for students as individuals and adhere to their proper roles as intellectual guides and counselors. Professors make every reasonable effort to foster honest academic conduct and to ensure that their evaluations of students reflect each student's true merit. They respect the confidential nature of the relationship between professor and student. They avoid any exploitation, harassment, or discriminatory treatment of students. They acknowledge significant academic or scholarly assistance from them. They protect their academic freedom.
3. As colleagues, professors have obligations that derive from common membership in the community of scholars. Professors do not discriminate against or harass colleagues. They respect and defend the free inquiry of associates, even when it leads to findings and conclusions that differ from their own. Professors acknowledge academic debt and strive to be objective in their professional judgment of colleagues. Professors accept their share of faculty responsibilities for the governance of their institution.
4. As members of an academic institution, professors seek above all to be effective teachers and scholars. Although professors observe the stated regulations of the institution, provided the regulations do not contravene academic freedom, they maintain their right to criticize and seek revision. Professors give due regard to their paramount responsibilities within their institution in determining the amount and character of work done outside it. When considering the interruption or termination of their service, professors recognize the effect of their decision upon the program of the institution and give due notice of their intentions.
5. As members of their community, professors have the rights and obligations of other citizens. Professors measure the urgency of these obligations in the light of their responsibilities to their subject, to their students, to their profession, and to their institution. When they speak or act as private

persons, they avoid creating the impression of speaking or acting for their college or university. As citizens engaged in a profession that depends upon freedom for its health and integrity, professors have a particular obligation to promote conditions of free inquiry and to further public understanding of academic freedom.

American Association of University Professors
1133 Nineteenth Street, NW, Suite 200
Washington, DC 20036
Phone: 202-737-5900 | Fax: 202-737-5526

Appendix II: AALS Statement of Good Practices for the Recruitment of and Resignation by Full-Time Faculty Members

(referenced in 2003 AALS Statement of Good Practices by Law Professors in the Discharge of their Ethical and Professional Responsibilities)

The Association of American Law Schools recognizes that the mobility of law teachers among law schools and other professional positions is both inevitable and desirable. Yet the departure of a full-time law teacher always requires changes at the law school. Unless the school is given sufficient time to make the necessary arrangements to find another to offer the instruction given by the departing teacher, the reasonable expectations of students will be frustrated and the school's educational program otherwise disrupted. To serve the best interests of the program of legal education from which the teacher is departing and that to which she or he may be going, the Association urges that law schools and law faculty members follow these suggested practices.

It is recognized that the basic principles announced in the Statement on Recruitment and Resignation of Faculty Members, issued in 1961 by the American Association of University Professors and the Association of American Colleges, remain sound. However, the present environment in legal education, and to a large extent that throughout colleges and universities, requires a substantially greater lead time in making faculty appointments and other administrative decisions. These specific statements are, therefore, no longer useful guides to present action by deans, appointment committees, and faculty who wish to proceed appropriately in recruiting law teachers from the full-time faculty of other law schools or who wish to resign to accept positions elsewhere or request a leave of absence. This statement of good practices is designed to address the current condition in legal education and to provide those who wish to proceed responsibly a guide to appropriate conduct.

Faculty Appointments Within the Statement. This statement applies to the recruitment of the full-time law teacher who is in active service at or on leave from a law school and is not on terminal appointment and applies whether the appointment offered is with or without tenure or to a position not eligible for tenure and whether the faculty member has tenure.

Importance of Early Recruitment. Negotiations looking toward the appointment for the following academic year of a person who is a full-time member of the faculty of another law school should be begun and completed as early as practicable in the academic year.

Offer of Appointment. To permit a full-time faculty member to give due consideration to an offer and timely notice of resignation or request for leave of absence to his or her law school, a law school should make an offer of an indefinite

appointment as a teacher during the following academic year no later than March 1 and of a visiting appointment no later than March 15.

Resignation or Request for Leave of Absence. A full-time faculty member should not resign to accept an indefinite appointment as a teacher at another law school during the next academic year later than March 15 nor request leave of absence to accept a visiting appointment as a teacher later than April 1. A law school should not offer an indefinite appointment or visiting position that contemplates that the faculty member resign or request leave of absence at a later date.

Consent of the Dean of the Law School. Even if the dean of the law school on whose faculty the person serves has acquiesced, a law school should not make an offer of an appointment as a teacher to a full-time member of the faculty of a law school more than two months later than the dates stated above and the faculty member should not resign or request leave of absence two months later than the dates stated above.

Recruitment of the Dean or Director of the Library. An offer of appointment for the following academic year as dean should be made to a full-time law teacher or dean as early as practicable in the academic year. As the impact on a school's program is significantly different in having to defer the appointment of a dean a year from that of having to defer appointment of a full-time teacher, the appointment of a dean may appropriately follow a later schedule than that suggested for the appointment of a full-time faculty member. All affected parties should, however, cooperate in making these appointments to the end that the interests of legal education at both law schools are served. This standard also applies to the director of the law school library.

Adopted by the Executive Committee,
August 12, 1979

Amended,
November 16, 1984

Amended,
May 15, 1986