BY-LAWS OF THE FACULTY OF LAW
CASE WESTERN RESERVE UNIVERSITY

ARTICLE 1: PURPOSE

1.1 These By-Laws, and all amendments adopted as hereafter provided, shall constitute the rules governing the procedures of the Faculty of Law in the performance of its duties and powers specified in and authorized by the By-Laws of the Board of Trustees, the Constitution of the University Faculty, and the University Faculty Handbook.

ARTICLE 2: THE FUNCTIONS OF THE FACULTY

2.1 Introduction. The Faculty has primary responsibility for the selection of those individuals who constitute the tenured, tenure track, and non-tenure track Faculty. The Faculty and the Administration have joint responsibility for implementation of plans. Since operations by the Administration may require modification of plans, the Faculty has a right to be kept informed of operations, and to be consulted on operational problems or decisions which may affect the overall operations or plans of the School. Accordingly, the powers and responsibilities listed below do not constitute an exclusive list.

2.2 Recommendations on Policy. The Faculty shall have the authority and responsibility to make recommendations to the Dean, for implementation within the Law School, or, where appropriate, for transmission to the President or to the Faculty Senate, with respect to policies governing:
   1. Faculty personnel matters, including standards of appointment, re-appointment, promotion, tenure, and termination;
   2. assignment of courses and Faculty workloads;
   3. standards for curricula and content of courses and programs;
   4. standards and facilities for research and scholarship;
   5. requirements for admission and graduation;
   6. the establishment or discontinuance of educational or service programs.

2.3 Specific Functions. The faculty shall have the authority and responsibility to:
   1. make recommendations to the President and the Board of Trustees for the awarding of degrees in the ordinary course;

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1As originally adopted on June 4, 1973, and conformed to include all amendments made to date. A footnote number at the end of a section or of a paragraph within a section indicates that the section or paragraph has been amended. Explanatory comments are set forth in the footnotes. Amendments which merely renumbered sections are not footnoted, nor are amendments to sections subsequently repealed. This version is an exact copy of that prepared by then Secretary Hugh Ross which was headed Current to January 1, 1986, except for some formatting changes, and except for the amendment of May 14, 1996 to 3.1. This copy was last proof read against the Ross version on November 16, 1995. This revision was prepared to conform to changes in the University Faculty Handbook adopted in 2003. This revision was adopted by the Faculty of Law on October 1, 2007. The date shown in the footer indicates the date of printing.
(2) make recommendations to the President relative to appointment of a Dean of the Law School;

(3) make recommendations to the President for appointment of members of the Faculty. No person shall be appointed to the tenured, tenure track or non-tenure track Faculty by the University unless his or her appointment has been recommended by the affirmative vote of the faculty. This function may not be delegated. Special Faculty may be appointed by the Dean or his designee.

(4) make recommendations to waive policies on requirements for admission or graduation in specific areas. This function may be delegated.

(5) make recommendations to the Dean on the appointment of administrative officers, the formulation of the budget, and the allocation of the resources and facilities of the Law School, without limitation on the Dean's authority in any of the matters referred to in this paragraph 5.

ARTICLE 3: MEMBERSHIP AND VOTING RIGHTS

3.1 Tenured or tenure track faculty. Tenured or tenure track faculty members are those persons holding full-time academic appointments at the ranks of professor of law, associate professor of law, and assistant professor of law whose obligations to the Law School and the University include 1) teaching, 2) research and scholarship, and 3) service to the Law School and the University Community. Tenured or tenure track faculty shall be appointed, evaluated, reappointed and promoted in accordance with the procedures memorialized in Appendix A attached and incorporated by reference. Tenured or tenure track faculty shall be entitled to vote on all matters coming before the University Faculty and the Faculty of Law, except as limited below.

3.2 Non-tenure track faculty. Non-tenure track faculty members are those persons holding full-time academic appointments at the ranks of professor of law, associate professor of law, assistant professor of law, senior instructor in law, and instructor in law whose obligations to the Law School and the University include two of the three obligations of the tenured/tenure track faculty, i.e., 1) teaching, 2) research and scholarship or 3) service to the Law School and the University Community.

Non-tenure track faculty in the Law School shall be appointed, evaluated, reappointed and promoted in accordance, where applicable, with either 1) the Policies and Procedures for Clinical Faculty attached as Appendix B and incorporated by reference; or 2) the Policies and Procedures for Lawyering Skills Faculty attached as Appendix C and incorporated by reference; or 3) such other policies and procedures adopted for the appointment, evaluation, retention or promotion of non-tenure track faculty as are stated in the University Faculty Handbook, or adopted by the Faculty of Law. Non-tenure track Clinical Faculty shall be entitled to vote on all matters coming before the University Faculty and the Faculty of Law, except as limited below. Non-tenure track Lawyering Skills Faculty shall be entitled to vote on all matters coming before the University Faculty, but on

2 Amended April 22, 1981. The former section provided that no person shall be appointed unless the appointment is approved by the Faculty, incorrectly implying that it is the Faculty which appoints. This has been corrected by stating that appointments require a recommendation for the appointment.
matters coming before the Faculty of Law, only on appointments, reappointments or promotions of other non-tenure track Lawyering Skills Faculty, except as limited below. Other non-tenure track faculty shall be entitled to vote on all matters coming before the University Faculty, but shall not vote on matters coming before the Faculty of Law.

3.3 Special faculty. Special faculty members are 1) those persons holding part-time academic appointments, or 2) persons holding full-time academic appointments, but who have specific, limited responsibilities for the duration of a specific project, or for a limited duration. The obligations of special faculty shall include one of the three obligations of the tenured/tenure track faculty, i.e., 1) teaching, 2) research and scholarship or 3) service to the Law School and the University Community. The titles of special faculty in the Law School shall be visiting (assistant, associate or full) professor of law, visiting instructor (or senior instructor) in law, or adjunct (assistant, associate or full) professor of law. Special faculty members shall not be entitled to vote on matters coming before the University Faculty or the Faculty of Law.

3.4 Voting Limitations.

(1) On matters involving the granting of tenure, only those Faculty members with tenure shall be entitled to vote.

(2) On matters involving promotions of Faculty who have tenure track appointments, only those tenured or tenure track Faculty of rank equal to or senior to the rank to which the individual is being promoted shall be entitled to vote.

(3) On matters involving initial tenure track appointments to the Faculty (regardless of rank), only those Faculty who have tenure track appointments shall be entitled to vote.\(^3\)

(4) On matters involving the initial appointment of non-tenure track Clinical Faculty only tenured or tenure track and Clinical Faculty shall be entitled to vote.

(5) On matters involving the reappointment or promotion of non-tenure track Clinical Faculty, only those Faculty of rank equal to or senior to the rank to which the individual is being reappointed or promoted shall be entitled to vote. For purposes of the previous sentence, all tenured or tenure track Faculty are senior in rank to non-tenure track Clinical Faculty.

(6) On matters involving the initial appointment of non-tenure track Lawyering Skills Faculty, all tenured, tenure track, non-tenure track Clinical and non-tenure track Lawyering Skills Faculty shall be entitled to vote.

(7) On matters involving the reappointment or promotion of non-tenure track Lawyering Skills Faculty, only those Faculty of rank equal to or senior to the rank to which the individual is being reappointed or promoted shall be entitled to vote. For purposes of the previous sentence, all tenured or tenure track and non-tenure

\(^3\) The phrase and on personnel matters involving initial appointments . . . (since revised to read “On matters involving initial tenure-track appointments . . .”) was added by amendment adopted January 11, 1983. The purpose was to spell out that administrative officers who have regular Faculty appointments, but who are not tenure track, cannot vote on initial appointments to the regular Faculty. The whole of 3.4 (now 3.1) was substantially revised by faculty vote of May 14, 1996, in order to make provision for members of the clinical faculty.
track Clinical Faculty are senior in rank to non-tenure track Lawyering Skills Faculty.

(8) On matters involving standards and policies concerning promotion, tenure, or eligibility for sabbatical leave of tenured or tenure track Faculty only tenured or tenure track Faculty shall be entitled to vote.

3.5 **Law Librarian.** The Law Librarian is eligible for election to the tenured, tenure track, non-tenure track, or special Faculty as defined above, which election shall entitle the Law Librarian to vote on matters presented to the Law Faculty, in accordance with the voting rights and limitations applicable to the type of appointment.4

3.6 **Allocation of Resources.** The Law School shall allocate a reasonable amount of resources and time to each member of the Law Faculty (whether tenured, tenure track, non-tenure track or special) to encourage and make possible scholarly growth, academic achievement and professional development, to enable them to fulfill their obligations as required by the nature and type of their appointments.

3.7 **Definition of Full-time Faculty.** For all purposes in these By-laws, the term “full-time” when referring to Law Faculty shall be defined as in Chapter 3, Part One, Section I.B.2. of the Faculty Handbook.

**ARTICLE 4: OFFICERS**

4.1 **Presiding Officers.** The Dean of the School of Law shall preside at Faculty Meetings unless the President of the University exercises his prerogative to do so. In the absence of both the President and the Dean, the Secretary shall preside unless the Faculty elect a presiding officer.

4.2 **Secretary.** The Secretary shall be elected annually by the Faculty. The functions of the secretary are:

(1) to keep the minutes of the Faculty Meetings and sign the official copies of the minutes;

(2) to be responsible for reproduction and distribution of these minutes to the Faculty;

(3) to be responsible for preparation of and distribution to the Student Bar Association of a summary of action taken at Faculty Meetings, with the approval of the Dean;

(4) to prepare for the Faculty annually in the fall a list of members of the Faculty including those with voting privileges and those without voting privileges.

**ARTICLE 5: MEETINGS**

5.1 **Regular Meetings.** The Faculty shall hold at least three regular meetings in each semester on dates to be determined by the Dean. The Faculty at any regular meeting may by majority vote fix

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4Section 3.3 (now 3.5) was added March 18, 1983, to clarify the Faculty status of the law librarian.
the date of the next regular meeting.

5.2 **Special Meetings.** Special meetings shall be held on the call of the President, the Dean, or on the written request to the Dean or the Secretary signed by 20% of the voting Faculty.

5.3 **Attendance at Faculty Meetings.** All full-time Faculty (including full-time special Faculty) shall be entitled to attend any meeting of the Faculty subject to the limitations in this paragraph. Part-time Faculty, and administrative personnel (who do not have full-time Faculty appointments in addition to their administrative appointment) shall be entitled to attend meetings of the Faculty to which they are specifically invited by the Dean. In matters involving initial appointments to the Faculty, only full-time tenured, tenure track, non-tenure track and special Faculty, whether or not they are entitled to vote on the matter under consideration, shall be entitled to attend that portion of the meeting at which discussions and a vote take place. In matters involving reappointments, promotions, and grants of tenure only those Faculty who are entitled to vote on the matter under consideration before the Faculty shall be entitled to attend that portion of the meeting at which discussions and a vote take place.

5.4 **Voting.** Voting shall be by voice vote or by show of hands, unless a secret ballot vote is called for by any voting member, in which case the vote shall be by secret ballot. Votes may be cast by a written proxy filed with the Secretary. A secret ballot shall be required on all personnel matters, including appointments, reappointments, promotions, and grants of tenure.

5.5 **Quorum.** One half of the members of the Faculty entitled to vote on a particular matter shall constitute a quorum for that matter. Members present by proxy shall not be counted in determining a quorum.

5.6 **Notice and Agenda.** The Dean (or in his or her absence the Secretary) shall notify in writing each member of the Faculty entitled to notice, at least five (5) days in advance of any meeting held during the academic year, and at least fifteen (15) days in advance of any meeting held during the summer period. Faculty on leave shall be entitled to receive notice and to vote.

The notice shall specify the time and the place of the meeting, and the agenda of the meeting. Items of business not listed on the agenda may be considered at a regular meeting. No action may be taken at either a regular or Special meeting on an individual personnel decision (appointment, promotion, tenure, etc.) unless the notice of the meeting specifies the individual and the action proposed.

The requirement of notice of a meeting may be waived by a written waiver agreed to by the faculty member(s), and shall be waived by attendance at the meeting.

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5Prior to the Amendment of October 18, 1978, Section 5.3 (now 5.4) read as follows:

5.3 Voting. Voting shall be by voice or show of hands unless a roll call vote is requested by any voting member in which case a roll call vote shall be taken and recorded. Votes may be cast by a written proxy filed with the Secretary, with respect to specific matters listed in the notice of the meeting.

6Secret ballots for personnel matters were adopted by Amendment of April 14, 2005.
5.7 Action Without Meeting. Any action which may be taken by the Faculty at a meeting, may be taken without a meeting, by a writing filed with the Secretary setting forth the action taken and the written approval of all of the Faculty entitled to vote on such action if a meeting were held.

ARTICLE 6: RULES OF ORDER AND ORDER OF BUSINESS

6.1 Rules of Order and Order of Business. The meetings shall be conducted in accordance with Robert's Rules of Order (latest edition). The order of business at all regular meetings shall be as follows:

(1) Presentation of proxies and determination of a quorum;
(2) Presentation and adoption of minutes;
(3) Announcements;
(4) Report from the Faculty Senator or Senators;
(5) Reports of Standing Committees;
(6) Reports of Special Committees;
(7) Consideration of unfinished business; and
(8) Consideration of new business.

ARTICLE 7: COMMITTEES

7.1 Standing Committees. The Standing Committees of the Faculty are the Committees on:

(1) Admissions
(2) Appeals and Rules
(3) Appointments
(4) Building
(5) Curriculum
(6) Library
(7) Promotion and Tenure

ARTICLE 8: MEMBERSHIP AND PROCEDURES OF COMMITTEES

8.1 Ex-Officio Members. The Dean, or a Faculty member or administrator designated by the Dean, shall serve as a member ex officio of all Standing and Special Committees, except for the Promotion and Tenure Committee, with full voting rights.

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7Section 6.1(a) (now 6.1(1)) was amended and 6.1(d) (now 6.1(4)) was adopted September 27, 1985.
8Section 6.1(a) (now 6.1(1)) was amended and 6.1(d) (now 6.1(4)) was adopted September 27, 1985.
9Sections 7.1 and Sections 9.2-9.8 were amended September 30, 1983, to restructure the Standing Committees.
10Section 8.1 was amended November 18, 1983 to conform Section 8.1 to Section 9.8, as 9.8 was amended September 30, 1983.
8.2 Faculty Members of Committees. Members of the tenured, tenure-track and non-tenure track Faculty are eligible to serve as Faculty members of the Committees.

8.3 Student Members of Committees. Only full-time students of the School of Law are eligible to serve on Committees designated in Article 9 as having student members.

8.4 Selection of Members - Standing Committees. Faculty members shall be elected by the Faculty. Student members shall be selected by the Student Bar Association.\(^\text{11}\)

8.5 Selection of Members - Special Committees. For those Special Committees established by the Faculty, members shall be selected in the manner designated by the Faculty, and for those Special Committees established by the Dean, members shall be selected by the Dean.

8.6 Time of Selection and Term. Members of Special Committees shall be selected at such time and shall serve for such time as shall be designated by the authority (Dean or Faculty) which establishes the Committees.

   Student members of Standing Committees shall be selected not later than the first month of the fall semester, to take office immediately.

   Faculty members of Standing Committees shall be elected not later than the first month of the fall semester, to take office immediately.\(^\text{12}\)

   Members of Standing Committees shall serve from the time selected until the end of the academic year for which they are selected, or until their successors assume office, whichever is later.

8.7 Officers. The Chair of each Committee shall be designated from among the membership of the Committee, by the Dean, with the advice and consent of the Faculty. The Secretary shall be designated from among the membership of the Committee, by the Chair.

   The Chair shall have the right to vote in all cases.

8.8 Procedures. Committees shall meet on the call of the Dean, the Chair, or on the call of the majority of the Committee, and may establish rules as to the conduct of its meetings. Two thirds of the members of the Committee shall constitute a quorum, and all decisions shall be by majority vote of those present. All Committee members have equal rights to vote and participate.

\(^{\text{11}}\)Prior to Amendment on June 3, 1974, Section 8.4 read as follows:

   8.4 Selection of Members - Standing Committee

   Faculty members shall be appointed by the Dean with the advice and consent of the Faculty. Student members shall be selected by the Student Bar Association.

\(^{\text{12}}\)Prior to Amendment on June 3, 1974, the third paragraph of Section 8.6 read as follows:

   Faculty members of Standing Committees shall be selected during the last month of the spring semester, to take office immediately.
ARTICLE 9: FUNCTIONS AND COMPOSITION OF COMMITTEES

9.1 Special Committees. Special Committees shall have those functions and shall be composed of those persons (including Faculty, students, and others) as are designated by the authority (Dean or Faculty) which establishes the Committee.

9.2 Admissions. The Admissions Committee shall be composed of two student members, at least four Faculty members, and the Dean or his designee. The Committee shall consider and recommend to the Faculty major policies on admissions and financial aid; evaluate admission and financial aid procedures; and participate in the admissions process where discretionary judgment is required and the decision has not been delegated to the admissions office for determination under specific policies.13

9.3 Appeals and Rules. The Appeals and Rules Committee shall be composed of at least four Faculty members. The Committee shall serve as the grievance Committee for the Law School. The Committee shall hear appeals by students from administrative decisions of the Dean or his designee which implement academic policies, except for violations of the Law School Code of Conduct. The decision of the Committee on such appeals shall be final within the Law School, subject only to appeal procedures, if any, at the University level. The Committee shall receive reports on administrative implementation of academic policies from the Dean, and may review such decisions on its own motion. The Committee may also develop and recommend to the Dean guidelines for the implementation of academic policies. The Committee shall develop and recommend to the Faculty academic regulations and standards, and shall accept such ad hoc assignments as may be determined by the Faculty. The Committee shall also have jurisdiction to hear all matters in which revocation of academic credit previously granted is requested because of plagiarism, cheating, improper cooperation on work or other violation which reflects on the academic significance of the effort for which credit has been granted. If the Committee finds that a student has committed such a violation, it may retroactively revoke any credit which may have been awarded for said effort.14 15

9.4 Appointments. The Appointments Committee shall be composed of two students, at least four Faculty members and the Dean or his designee. The Committee shall review all candidates for appointment to the tenured, tenure track, or non-tenure track Faculty, shall make recommendations to the Faculty on every such appointment, and shall, on request of the Dean, review candidates for the special Faculty, including visiting Faculty.16

13Sections 7.1 and Sections 9.2-9.8 were amended September 30, 1983, to restructure the Standing Committees.

14Sections 7.1 and Sections 9.2-9.8 were amended September 30, 1983, to restructure the Standing Committees.

15The last two sentences of Section 9.3 were added by Amendment on December 4, 1985.

16Sections 7.1 and Sections 9.2-9.8 were amended September 30, 1983, to restructure the Standing Committees.
9.5 Building. The Building Committee shall be composed of two student members, at least three Faculty members, and the Dean or his designee. The Committee shall advise the Faculty and the Dean on the utilization, allocation, maintenance, and replacement of the physical facilities of the law school.\(^{17}\)

9.6 Curriculum. The Curriculum Committee shall be composed of two student members, at least four Faculty members, and the Dean or his designee. The Committee shall consider and make recommendations to the Faculty on all matters relative to the educational programs for which credit is awarded. The Committee shall also exercise oversight of the administration of all joint degree programs.\(^{18}\)

9.7 Library. The Library Committee shall be composed of two student members, the Librarian ex-officio, at least three Faculty members, and the Dean or his designee. It shall advise and assist the Dean and Librarian on library services, and shall make recommendations to the Faculty on library policies.\(^{19}\)

9.8 Promotion and Tenure. The Promotion and Tenure Committee shall be composed of at least four tenured or tenure track Faculty members. In the case of non-tenure track Clinical or Lawyering Skills Faculty candidates, the Committee shall be augmented as required in Appendices B and C. In the case of non-tenure track candidates other than Clinical or Lawyering Skills Faculty, the Committee shall be augmented by one non-tenure track faculty member of equal or senior rank to the candidate under consideration. The Committee shall consider all matters of promotion, reappointment and tenure for members of the Faculty (tenured, tenure track, or non-tenure track) and shall make recommendations to the Faculty thereon. Each Faculty member whose appointment leads to tenure consideration shall be considered for tenure no later than six years after the effective date of the initial appointment, excluding any period of any pre-tenure extension that may have been granted under the Faculty Handbook provisions.\(^{20,21}\)

ARTICLE 10: FACULTY REPRESENTATION IN UNIVERSITY GOVERNANCE

\(^{17}\)Sections 7.1 and Sections 9.2-9.8 were amended September 30, 1983, to restructure the Standing Committees.

\(^{18}\)Sections 7.1 and Sections 9.2-9.8 were amended September 30, 1983, to restructure the Standing Committees.

\(^{19}\)Sections 7.1 and Sections 9.2-9.8 were amended September 30, 1983, to restructure the Standing Committees.

\(^{20}\)Sections 7.1 and Sections 9.2-9.8 were amended September 30, 1983, to restructure the Standing Committees.

\(^{21}\)Amended June 3, 1974, and again on August 29, 1980. The last sentence provides for a six year pre-tenure period. The prior By-Law provided for a five year pre-tenure period for those whose initial appointment was assistant professor, and three years for those whose initial appointment was associate professor.
The Faculty shall be represented in University Governance by its Dean, other law school administrators, and by individual members of the Faculty as they shall from time to time be elected to serve on various University governing bodies.

The Faculty shall elect representatives to the Faculty Senate and other similar organizations which include Faculty representatives. All such representatives shall be elected at the time and for the term specified in the rules of such organization.22

**ARTICLE 11: AMENDMENTS**

These By-Laws may be amended at any Faculty meeting provided that each voting member of the Faculty shall have received from the Dean or the Secretary a written copy of the proposed amendments at least seven (7) days before the meeting.

**CERTIFICATION**

I certify that the above is a true copy of the By-Laws of the Faculty of Law, Case Western Reserve University, conformed to include all Amendments made up to the date of this certificate.

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Spencer Neth, Faculty Secretary
Date:

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22Article 10 was added by Amendment on June 3, 1974.
OLD 3.1  
3.1 Regular Faculty. The President of the University or his or her designee, the Dean of the Law School, and the Officers of Instruction who have appointments with tenure or who have appointments without tenure but leading to tenure consideration, and other Officers of Instruction and Administrative Officers whose Faculty status is approved by the Faculty, shall constitute the regular Faculty with full voting rights.

However, on personnel matters involving the granting of tenure or the retention of tenured Faculty beyond normal retirement age, only those Faculty members with tenure shall be entitled to vote; and on personnel matters involving promotions of Faculty, only those faculty of rank equal to or superior to the rank to which the individual is being promoted, shall be entitled to vote; and on personnel matters involving initial appointments to the Faculty, only those Faculty who have appointments with tenure or who have appointments without tenure but leading to tenure considerations shall be entitled to vote.

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23 The phrase and on personnel matters involving initial appointments . . . was added by amendment adopted January 11, 1983. The purpose was to spell out that administrative officers who have regular Faculty appointments, but who are not tenure track, cannot vote on initial appointments to the regular Faculty.