

Approaching Tenure with Confidence

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When I was asked to talk about approaching tenure with confidence for the 2009 AALS Annual Meeting, it was January of 2008. My tenure vote was scheduled for the following November. Perhaps in agreeing to take on this topic, I was tempting fate. But I prefer to think that I was exemplifying my topic. The tenure process is intimidating, no doubt. Complete confidence is, perhaps, unattainable. Thus, a better title for my talk may well have been, "Approaching Tenure with More Confidence" or even "Approaching Tenure with Some Confidence." How can you do this? The answer is deceptively simple. Most faculty members want to vote yes on tenure decisions. Moreover, they would love to do so with as little faculty discussion as possible. So, your job is really quite simple: Make the decision an easy one for your faculty (Indeed, so easy that you would foolishly agree to talk about earning tenure before you have it!). Let me explain how you might do this.

Likely you have heard that the duties of a law professor can be likened to a three legged stool. Each leg represents one area of responsibility: scholarship, teaching, and service. I think the analogy is inapt for two reasons. First, the analogy implies that the three legs are of equal length. They are not; some areas are critically important (scholarship), while others are of passing importance (service). Second, the analogy ignores an important, unrecognized, fourth leg of the stool: collegiality. Hence, a better analogy would be a chair with two very long front legs and two shorter back legs. So long as the front legs stay long, you will stay in the chair, albeit not always comfortably! If the front legs become too short, you will fall out of your chair and, perhaps, out of the profession.

Let's talk about each leg in order of importance. As I do so, keep in mind that generalizing is never perfect: Your school may value the legs a little differently.

By far the most important leg of the stool is scholarship. Without a good scholarship record, your tenure process will be rocky at best and a failure at worst. For this reason, you must make scholarship a priority. Schedule it. Have a scholarship day or two half days. Then protect that time from any and all interruptions. If at all possible, stay away from the office on this day. Minimize your obsessive-compulsive need to check e-mail and voice-mail. Resist all of your colleagues' and students' attempts to get you to ignore your writing. Ignore the attempts of well-meaning individuals who will try to interfere with your writing plans. You may be told things like "Summers are for writing" or "Don't try to write during your first year" or, even, "Sleep." While these individuals likely mean well, the advice is unsound. Possibly these individuals have simply forgotten how long the first few articles take new scholars. In my opinion, you should hit the ground running from day one. If you do so, you will likely have an article completed by the end of the summer following your first year. Completing an article in this time frame would get you well on the way to compiling a very strong scholarship record. Thus, be selfish. Schedule, and then protect scholarship time at all costs.

If you are not used to having a scheduled scholarship time, then the first few times you sit down at your computer, you may feel a little strange and distracted. Perhaps you will feel that you are neglecting your real job, teaching. Remember, however, that at least one-third of your ten-month salary is for writing. Hence, if you work forty to sixty hours per week, then fifteen to twenty of those hours should be spent writing. As you likely know by now, teaching can easily expand to fill all the hours of the day. Your job, in part, is to cabin that monster. As you remain faithful to the purpose of your scholarship day, you will begin to find that you look forward to the writing time and that you actually

feel odd when not writing. At this point, you have made writing a habit. I have heard that it takes about twenty-one days to establish a habit; so hang in there at least that long.

Once you have planned your scholarship time, you will need to decide what types of scholarship to write—law review articles, books, CLE materials, co-authored pieces, briefs, etc. Not all scholarship is of equal value to every institution. Chat with members of your faculty to learn what is valued at your school. Then, and more importantly, chat with colleagues at your “aspirational” school, the school where you may want to work in the future. Follow the “stricter” of the two standards in case you want to lateral someday, you have that option.

In addition to deciding the type of scholarship you will write, you need to consider the amount of scholarship you will produce. Likely, you will hear that quantity isn’t important, quality is what matters. Don’t believe this statement; both quality and quantity are important. Certainly, quality is the more critical of the two; but, quantity matters. How many articles is enough? More than you are told is expected. Think about it. Do you appreciate students who try to do the least amount of work possible in your class? Do you really expect your colleagues to value that attitude in you? Don’t try to skate by; rather chose to ride home in glory.

Lastly, in regard to scholarship, you must network. Attend conferences, present your scholarship at these conferences and at other schools, and mail out reprints. Your goal is to get to know and be known by the experts in your field. Ultimately, these are the people who will review your scholarship. At some point, you will need to provide the names of these experts to your tenure committee so that outside reviewers can be selected; not having any names to suggest is not a good start to your tenure review process. Moreover, a standard question your outside reviewer may need to answer is whether you are known in your field. If your outside reviewer has never heard of you, you haven’t met this criterion.

In summary, scholarship is the most essential leg of your chair. Hence, you must schedule it, respect it, and value it. In other words, “Just do it!”

The second most import leg of the chair is collegiality. Some schools openly recognize collegiality in their tenure standards; most do not. But collegiality matters. A collegial faculty member with a marginal tenure package may squeak by. A non-collegial faculty member with a marginal tenure package will likely not. Hence, be someone who plays nicely with others in the sandbox. Be a positive and supportive presence at your law school. Show up for students events, be a good committee member, and, at least initially, keep your wonderful suggestions for improving the school to yourself. You will have plenty of time, once you’ve learned the history of the school, to suggest changes. Be yourself, but be your “best self”—the person you are on a first or second date.

The third leg of the chair is teaching. Surprisingly, perhaps, I have little to say about teaching because you are already likely over-focused on this aspect of your job. Generally, we all became law professors not because we wanted to write and do service, but because we love to teach and work with students. And it is important for tenure to be a good teacher. But pedagogy is a time-sucker. I suggest only that you fairly evaluate whether you are giving a disproportionate amount of time to this aspect of your job. Remember that at most, it should take no more than one-third of your work time. One suggestion to help you with prep time is to contact professors who have used the same book that you are using and ask for their help. Susan Roselle’s “Happy to Help Database,” is a resource with the names and contact information of professors who have offered to share teaching materials. You can find this list at http://www.law.capital.edu/AALS_New_Law_Professors/.

That leaves the fourth leg of our chair, service. Simply put, outstanding service will not save a weak tenure application. If you don’t write and teach well, you won’t get tenure. Service should play an increasingly important role in your job as your career progresses. Prior to tenure, try to stay off the time-consuming, political committees such as appointments, curriculum, moot court, and admissions. While it is never in your best interest to tell your dean “no” should you be appointed to one of these

committees, you might suggest that at this time in your career, a less time-intensive committee would be welcome.

Similarly, be cautious in your willingness to do other service related tasks. For example, your pre-tenure years may not be the best time to coach a moot court team or serve as the advisor to more than one student law review note. But be judicious, not absent. While you might choose not to coach a team, offer to bench a practice or two instead. An unwillingness to do any service will be viewed as not being collegial because your colleagues will have to pick up what they perceive as your slack.

In closing, let me admit that the tenure process isn't fun. There are some elements, such as outside reviews, over which you will have no control. Hence, control what you can. Make your package so overwhelming that even your "demon"—the faculty member who has decided to make your professional life miserable—will say to you before the vote: "You done good, kid." I promise you, there are no sweeter words!