



Memorandum

To: Charles Van Loan, Dean of the Faculty

From: Eduardo Peñalver, Allan R. Tessler Dean and Professor of Law

Date: Feb. 24, 2020

Re: Elaboration on Proposal to Grant Law School Discretion over Maximum Periods of Service

The Law School seeks to join the other top law schools with strong clinical programs by advancing the status of its clinical faculty. A waiver permitting the Law School to establish a pathway to clinical tenure would afford the Law School the flexibility Weill Cornell Medicine has enjoyed since the 1950s, and it would strengthen our ability to attract top clinical faculty. The ability to offer candidates the possibility of clinical tenure is particularly important if we are to lure the strongest clinical faculty to Ithaca. The relative lack of legal services community partners in this rural market acts as a strong deterrent to candidates considering bringing a sophisticated clinical practice to the Law School. Adding non-tenure-track status to that, when most peer law schools offer tenure to clinicians, makes recruitment all the more difficult.

Law faculty consensus: The Law Faculty strongly endorses this proposal. Over the past two years, our school has engaged in an unusually searching process to arrive at the decision to seek this waiver. The then-Director of Clinical, Advocacy and Skills Programs met individually with tenured and tenure-track faculty members, clinicians, and other key internal stakeholders. Last fall, a law faculty committee devoted two full meetings to discussing and refining the proposal, before the tenured and tenure-track faculty held a special meeting on November 1. The committee then met for a third time to finalize and vote on the document. At the December 4 faculty meeting, the vote was unanimous, with one abstention. Of the 40 tenured and tenure-track faculty eligible to vote, 22 participated in the December 4 meeting, a typical level of attendance given sabbatical leaves and professional travel. Our faculty meeting rules do not permit remote participation or proxy voting, but the lopsided vote in favor of the final proposal reflects the balance of faculty opinion in support for this move.

Clinical instead of unitary track: The law faculty carefully discussed the possibility of converting the clinical faculty to the traditional tenure track. We rejected this option because we were persuaded that the Weill Cornell model provides the right one for what we are attempting to accomplish. Clinical faculty are promoted not just on the basis of the traditional metrics of scholarship, teaching and service, but also on the additional basis of their clinical acumen. We believe that a bifurcated tenure system, with clinical tenure demarcated by a difference in title and standards, is more transparent and safeguards the traditional tenure track from confusion. In addition, because – as a professional school – our pedagogical goals (and, increasingly, our methods) are closely aligned with Weill Cornell, adopting the structure they have already pioneered for professional instruction at Cornell University is less disruptive than the alternative.

