

ALL-SIS

**ACADEMIC LAW LIBRARIES
SPECIAL INTEREST SECTION**

**White Paper on Continuing Status and
Tenure of Law Librarians**

2024

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**American Association of Law Libraries
Academic Special Interest Section**

**White Paper on Continuing Status and Tenure of
Law Librarians**

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Introduction	4
I. Concepts of Status and Rank	5
A. Overview: Common Librarian Responsibilities	5
B. Concepts: Status & Rank; Academic Freedom & Shared Governance	6
1. Status and Rank	7
2. Academic Freedom & Shared Governance	9
II. Elements of Status and Implications	10
A. Individual Considerations & Tradeoffs	10
B. Shared Governance	11
1. Faculty Meetings & Voting Rights	12
2. Committee Responsibilities	13
3. Academic Freedom: Librarianship & Teaching	13
4. Reading Job Ads	16
6. Implications for Education, Experience, and Skills	17
Part III: The Scope of Tenure and Tenure-Like Statuses for Librarians	18
IV. AALL Position on Tenure and Continuing Status	21
V. Conclusion	23

Introduction

In 2023, the ALL-SIS Continuing Status/Tenure Committee was charged with developing a white paper to provide information on the status, rights, and responsibilities of academic law librarian positions. The information provided in this paper is intended to allow law librarians to make informed career choices, increase knowledge of the rights and obligations of librarian positions, and ensure the development of necessary skills and education for future new positions. Clarity on how positions are structured, their required skills, and credentials is essential at all levels of experience for planning and development for future career growth.

This White Paper does not advocate for a particular structure or status when providing information on the components of status and the implications of those components. The Committee hopes this white paper benefits law librarians' understanding and decision-making and reaches law school deans, faculty members, and others in the legal academy to develop a better appreciation of the expectations and backgrounds of their librarian colleagues.

The Committee's work is focused on non-director librarians. However, committee members acknowledge that clarity in director positions is equally needed and hope future committees may provide information on the continuing status and tenure of law library directors.¹

This white paper is divided into four parts: Part I addresses the concepts of status and academic rank for academic law libraries and librarians. Part II discusses the components or elements of status and related issues, including voting rights, service responsibilities, and academic freedom. Part III discusses the tradeoffs of rights and responsibilities associated explicitly with tenure and similar status. Finally, Part IV discusses the 1987 adopted position of the American Association of Law Libraries membership on status and rank.

I. Concepts of Status and Rank

A. Overview: Common Librarian Responsibilities

Academic law librarian positions vary significantly across institutions, with notable differences in rights and responsibilities. Librarians are commonly expected to

¹ See, e.g., Elizabeth G. Adelman, et al., *Academic Law Library Director Status Since the Great Recession: Strengthened, Maintained, or Degraded?*, 112 LAW LIBR. J. 117 (2020); Christine M. Stouffer, *Job for Life – Tenure and Other Sticky Situations*, 16 AALL SPECTRUM 11 (2011); Spencer L. Simons, *What Interests Are Served When Academic Law Library Directors Are Tenured Law Faculty - An Analysis and Proposal Institutional Issues in Legal Education*, 58 J. LEGAL EDUC. 245 (2008).

spend the greatest proportion of their time and energy on their librarian appointment, balancing this with any additional requirements such as teaching or service, traditionally in the form of committee work.

Information on librarian job structures and job expectations across institutions is lacking, creating difficulties for librarians in two fundamental ways. First, those newly entering the job market or considering job transitions do so without a complete and nuanced understanding of the range of options in employment structures and are underprepared to make strategic career decisions. Second, librarians interested in advancement to management must ensure they have the required background and skills for these positions and must be able to address gaps in their skill sets.

While positions vary extensively, past surveys indicate that many academic law librarians fall into one of three main categories: (1) faculty (library or law), (2) at-will staff, or (3) academic personnel (often with some security of position after meeting designated criteria). The committee recognizes that these broad categories do not represent nuances at each institution, but they capture the high-level categories². These three categories represent both unionized/represented and non-unionized positions.

B. Concepts: Status & Rank; Academic Freedom & Shared Governance

Some of the terms and concepts discussed in this white paper may be unfamiliar to librarians new to academia. If these terms are used as comparison points, explanation might be helpful. The related concepts of status and rank, on the one hand, and academic freedom and shared governance, on the other, are summarized below.

² Note that these categories encompass both unionized and non-unionized positions. Unionization raises its own additional rights and expectations and is beyond the scope of this white paper.

1. Status and Rank

Status in these discussions, also called continuing status or faculty status, is an indicator of job security (contract or appointment renewal) and indicates whether a librarian may be terminated, or their contract not renewed. Librarians who are at-will employees may be terminated for any or no reason; tenured librarians may not be terminated without process.³ Contracts vary in length, generally from 1 to 5 years or longer.⁴ The longer the term of the contract, generally the more security in the position.⁵

In academic institutions, rank indicates the category of the position and level within that category.⁶ Titles such as Instructor, Lecturer, Librarian II, Assistant Librarian, Associate Librarian, Library Director, Teaching Professor, Clinical Professor, and Professor of Practice all indicate one's rank.⁷ Faculty tenure serves as a point of comparison: faculty may be hired with tenure as an Associate Professor of Law, or on the "tenure track," as Assistant Professors of Law. Alternatively, they may be hired as Visiting Professors, without the option to apply for tenure review. Those three examples describe both the category (tenured, tenure-track, or non-tenure-track) and level (Assistant, Associate, or Visiting Professor).

A librarian's rank may be situated within the larger group of faculty, librarians, or both. Some librarians have appointments as faculty within the law school or university,

³ Standards for termination or non-renewal vary considerably, but the touchstone for these discussions is tenure, the removal of which requires the institution to meet extraordinarily high burdens of proof of wrongdoing.

⁴ A common arrangement for directors is a 5-year presumptively renewable contract, with identified standards for removal during a 5-year term. Librarians with faculty status may be more likely to have contracts that protect them during the time of their contract.

⁵ Note that tenure and "continuing" (long-term or presumptively renewable) contracts are often linked with discussions of academic freedom, discussed below.

⁶ Academic rank refers to the faculty member's place in the faculty status hierarchy as a professor, associate professor, assistant professor, or instructor. It does not indicate if the faculty member is tenured or tenure track. Adelman, et al., *supra* note 1 at 128.

⁷ For example, see *Classification of Ranks and Titles*, BOSTON UNIVERSITY FACULTY HANDBOOK, <https://www.bu.edu/handbook/appointments-and-promotions/classification-of-ranks-and-titles/>.

while others have appointments as librarians within the law school, university library, or university. The promotion path and criteria are of paramount importance for future career planning. To complicate the issue even further, some librarians may have dual appointments with one appointment as librarian and another as faculty. Depending on the appointment, a librarian may be able to apply for promotion from one rank to another (within the same category or across categories), based on criteria such as achievement in leadership or publication record. If promotion opportunities within the institution are of interest, librarians should inquire about promotion paths and the criteria for advancement.

Example:

Zelda is an Associate Professor of Libraries with tenure in the University as a member of the University Library faculty. Their tenure conveys their status: a continuing appointment, where dismissal is only possible with cause and with established procedures to ensure the preservation of their academic freedom rights. Their Associate Professor title conveys their rank, including both category and level. They are grouped with other Associate Professors for hiring and promotion of others of the same rank (at the Associate level or below). The location of their appointment is in the University Libraries, which means their voting rights lie in that faculty, rather than in the law library or law school.⁸

⁸ In most institutions, those with the Associate Professor rank would be able to vote on the hire of a new faculty member with the Associate Professor rank within that faculty, and on the promotion of those going from Assistant Professor to Associate Professor. Note that an appointment such as the one used for illustration could still carry additional rights specified in faculty policies and/or granted by contract.

Every combination of status and rank gives rise to a unique set of rights and responsibilities for the librarian, including a wide range of job descriptions and performance measures. Additionally, while variations among institutions are significant, multiple combinations may also exist within institutions. For example, positions with teaching responsibilities may be more likely to carry status and rank than those without, so multiple “tracks” may exist in a library, with differing credentials and promotion criteria.

2. Academic Freedom & Shared Governance

Academic freedom and shared governance are similarly linked and are often associated with tenure or continuing status. Academic freedom protects from institutional censorship or discipline in certain contexts. For faculty, these contexts are teaching, research, and intramural and extramural speech.⁹ For librarians, academic freedom could be applied to collection development, reference and research, teaching support, teaching, and other services.¹⁰ Librarians should understand the role of academic freedom in their institution, and the extent of its protection.

Shared governance, or faculty governance, describes the administration sharing decision-making power with faculty or other personnel in the institution. Faculty

⁹ *FAQs on Academic Freedom*, AM. ASS’N U. PROFESSORS <https://www.aaup.org/programs/academic-freedom/faqs-academic-freedom> (2024) (calling attention to the fact note that the AAUP does not include librarians in the groups identified as benefiting from academic freedom).

¹⁰ As of this writing, the ABA has approved Resolution 300 adopting Standard 208, which requires law schools to “protect academic freedom in conducting research, publishing scholarship, engaging in law school governance, participating in law related public service activities, curating library collections and providing information services and exercising teaching responsibilities” and to “protect the rights of faculty, students, and staff to communicate ideas that may be controversial or unpopular, including through robust debate, demonstrations or protests.” ABA SECTION OF LEGAL EDUC. & ADMISSIONS TO THE BAR, REVISED STANDARDS FOR APPROVAL OF LAW SCHOOLS (2024) https://www.americanbar.org/content/dam/aba/administrative/legal_education_and_admissions_to_the_bar/standard_s/2023-2024/24-feb-midyear-standards-rules-updates-redline-and-clean.pdf [hereinafter ABA Standards. By including staff in the standard, librarians of all statuses are protected through the policies their schools are required to adopt. *See Id.*

governance generally covers matters such as curriculum, instruction, assessment, hiring, and promotion.

Individually, status, rank, academic freedom, and shared governance do not determine a librarian's rights and responsibilities in an institution. Librarians applying for jobs must look at each component separately and ask for clarification when a job description or contract provision is unclear.

II. Elements of Status and Implications

Tenure, shared governance, and academic freedom are core to the academic environment, but how do they apply to law librarians? There is no uniformity among terms indicating status; the titles, rights, and responsibilities are as varied as the number of institutions. To determine what status and security a position provides, one must understand the elements that comprise status and security and consider the rights, responsibilities, and implications of these elements alone and in combination.

A. Individual Considerations & Tradeoffs

Status is a complex set of participation rights in the institution, with associated responsibilities to that institution. There are tradeoffs for full participation in the law school, including increased service obligations in the form of committee responsibilities and tensions over curriculum, hiring, or promotion decisions, or other academic voting matters.

Status may bring academic freedom for service and teaching, as well as participation in the shared governance of the law school.¹¹ Participation in the educational

¹¹ See generally, The Association of American Law Schools (AALS) Bylaws Section 6-1 ((Core Values) describing “a faculty composed primarily of full-time teacher-scholars who constitute a self-governing intellectual community engaged in the creation and dissemination of knowledge about law legal processes, and legal systems and who are devoted to fostering justice and public services; academic freedom; (iii) diversity of viewpoints; (iv) excellent scholarship; (v) excellent teaching . . .”); and *Bylaws* ASSOC OF AM. LAW SCHS. Section 6-4(c) ((Faculty) noting “A

enterprise¹² is generally viewed as an advantage when seeking support for aligning the library's work to the law school. Tenured members of the faculty have full participation in governance, and protection for teaching, scholarship, and service. Librarians seeking such participation and protection from reprisal in library decision-making may focus on finding librarian positions offering tenure-stream appointments, or in appointments granting participation or protection.¹³

B. Shared Governance

Shared governance has been described as “a delicate balance between faculty and staff participation in planning and decision-making processes on one hand, and administrative accountability on the other.”¹⁴ In theory, shared governance gives stakeholders a voice, if not authority, and attempts to balance participation with accountability.¹⁵

faculty's competence shall by [sic] judged . . . Competence shall be determined in the aggregate, with emphasis upon the following criteria: (i) Quality of teaching and attention be given to law students both as individual sand as a group; (ii) Faulty training and experience; (iii) Scholarly interests and performance; and (iv) Responsible participation in the self-governing and deliberative processes of the law faculty.” See, *id.* See also, AALS Bylaw Section 6-5 ((Law School Governance) requiring the faculty to be primarily responsible for the determination of academic policy, faculty appointments and promotion including a selection of a dean) *Id.*; Section 6-6 ((Faculty Development) requiring a member law school to support a faculty member in the discharge of their teaching, scholarship and service obligations including the charge to support the “continuous and energetic study of new developments in the faculty members’ areas of interest and so as to be compatible with a climate of research in which faculty members may find opportunity to undertake investigations of their own choosing that will allow them to develop and continue as effective teachers and scholars” . . .) *Id.*

¹² See Susan P. Liemer, *The Hierarchy of Law School Faculty Meetings: Who Votes*, 73 UMKC L. REV. 351, 365 - 66 (2004).

¹³ Note that status, even with tenure, may not confer a participating role in faculty governance. Sharon Blackburn et al., *Status and Tenure for Academic Law Librarians: A Survey*, 96 LAW LIBR. J. 127, 142 (2004) (noting that faculty meeting attendance and committee service are not full participation in governance).

¹⁴ Gary A. Olson, *Exactly What is ‘Shared Governance’?*, CHRONICLE OF HIGHER ED. (July 23, 2009) <https://www.chronicle.com/article/exactly-what-is-shared-governance/?sra=true>. Note that authority derives from the governing board, delegated to the president, who delegates to the provost, deans, and faculty.

¹⁵ *Id.* See also Timeline of the First 100 Years, AM. ASSOC OF U. PROFESSORS (2015), <https://www.aaup.org/about/history/timeline-first-100-years>); Richard A. Danner & Barbara Bintliff, *Academic Freedom Issues for Academic Librarians*, 25 LEGAL REF. SERVICES Q. 13 (2007); James Weinstein, *Academic Freedom, Democracy, and the First Amendment*, in 2013 (2013), https://ncpl.law.nyu.edu/wp-content/uploads/resources/Weinstein-FinalPaperwithSupplement_000.pdf; Edwin R. A. Seligman et al., *General Report of the Committee on Academic Freedom and Academic Tenure: Presented at the Annual Meeting of the Association: December 31, 1915*, 1 BULL. OF THE AM. ASS’N OF UNIV. PROFESSORS (1915-1955) 15 (1915).

As envisioned by the AAUP,¹⁶ faculty are to have primary responsibility for matters relating to teaching and research,¹⁷ including curriculum, subject matter and methods of instruction, research, faculty status (including appointments, promotion, the granting of tenure, and dismissal), and aspects of student life that relate to the educational process. Faculty generally do not have exclusive authority.

1. Faculty Meetings & Voting Rights

Attendance at faculty meetings provides useful information for librarians in their work with collections and services, but meaningful participation in the institution requires more than mere presence.¹⁸ Voting at faculty meetings is the primary way to exercise the rights and responsibilities of shared governance. Voting rights vary across and within institutions, often limited to law faculty and the library director.

What matters do faculty vote on? This varies, but typical matters include grading standards, curriculum, and the hiring and promotion of faculty. Tenured faculty typically hold the broadest voting rights with the ability to vote on all issues presented to the faculty for a vote. The further away from the traditional tenure/tenured track faculty appointment, the less likely an individual is to have voting rights. Why does this matter for law librarians? Status and rank are common indicia of voting rights; however, voting rights may also be conferred by contract. Hiring and promoting faculty is an essential part of shared governance. Faculty members typically vote to empower the Dean to extend

¹⁶ Shared governance stems from university faculty organized in the early 1900s in response to the termination of faculty who disagreed with trustees. The American Association of University Professors (AAUP) was formed to preserve academic freedom, so professors would retain authority in areas of teaching and research, retention, and promotion. For more on the AAUP, see <https://www.aaup.org/our-programs/shared-governance>.

¹⁷ LARRY G. GERBER, THE RISE AND DECLINE OF FACULTY GOVERNANCE (2014), <https://press.jhu.edu/books/title/11087/rise-and-decline-faculty-governance> (last visited Oct 3, 2023).

¹⁸ Liemer, *supra* note 12, at 363.

an offer to a faculty candidate.¹⁹ Only those with at least that rank are customarily eligible to vote when voting on an appointment. Some institutions grant voting rights to librarians for all but hiring and promotion/tenure decisions. However, the inclusion of voting rights in a librarian's contract should not solely indicate one's ability to participate in the institution.

2. Committee Responsibilities

Law schools also use faculty committees to conduct the critical business of the institution. Committee responsibilities are an essential aspect of participation in governance and can create additional responsibilities for librarians. Faculty committees deliberate, propose policy, or handle any number of matters including curricular reform, grading policies, instruction, assessment, hiring, tenure, and the student experience as it intersects with the educational experience.²⁰ Committee service can involve significant responsibility and time commitment, depending on the assignment, institution, and policies. Notably, librarians serving on committees will not necessarily have voting rights. The greater the expected time commitment of committee work, the more some individuals will want a vote in the committee's decision-making and, ultimately the faculty.

3. Academic Freedom: Librarianship & Teaching

Librarians should understand the nature of academic freedom, its coverage at an institution, and the limits of its coverage, as part of understanding the tradeoffs of status. Academic freedom may protect acquisitions, reference and research support, teaching

¹⁹ Such votes may be bifurcated: one to offer tenure or a tenure-track position, another to appoint at a certain rank.

²⁰ Liemer, *supra* note 12, at 366.

support, and protection of reader privacy.²¹ Exercising any of these responsibilities may bring librarians into conflict with others in the institution, and academic freedom protects against reprisal for such conflicts.²²

Academic freedom for faculty supports engagement in a robust intellectual dialogue without the fear of censorship or retaliation.²³ It is intended to permit faculty and students the right to engage in research on topics of their choice, to be free from the imposition of political and religious perspectives, and to control course design.²⁴ Academic freedom stems from the foundation of shared governance. It is protection to speak through research, teaching, and dialogue.

ABA and Instruction

The American Bar Association is the accrediting organization²⁵ for law schools in the United States, setting minimum standards to obtain and retain approval. The ABA's

²¹ *See generally*, ABA Standard 604 “The law library shall have a staff sufficient in expertise and number to provide the appropriate library and information resources services to the school.” *See also* ABA Standard 605 “A law Library shall provide the appropriate range and depth of reference, instructional, bibliographic, and other services to meet the needs of the law school’s teaching, scholarship, research, and service programs.

²² Note that any analysis of academic freedom in a job should include whether you are protected as a professor/instructor, as a librarian, or both. *See* ABA Managing Director’s Office, Memorandum RE: Key Changes to the ABA Standards and Rules of Procedures for Approval of Law Schools after the February 2024 ABA House of Delegates Meeting (2024) (noting the adoption of Standard 208 Academic Freedom and Freedom of expression https://www.americanbar.org/content/dam/aba/administrative/legal_education_and_admissions_to_the_bar/standards/2023-2024/24-feb-midyear-standards-rules-updates.pdf) (2024).

²³ Cary Nelson, *Defining Academic Freedom*, INSIDE HIGHER ED. (Dec. 20, 2010) <https://www.insidehighered.com/views/2010/12/21/defining-academic-freedom>.

²⁴ ACRL Joint Statement on Faculty Status of College and University Librarians, AM. LIBR. ASS’N. <https://www.ala.org/acrl/standards/jointstatementfaculty> (last visited March 25, 2024).

²⁵ Accrediting organizations formed to assure and promote the quality of education, with accreditation required as a condition of obtaining access to student benefits and faculty research grants. *See, e.g.*, ALEXANDRA HEGJI, AN OVERVIEW OF ACCREDITATION OF HIGHER EDUCATION IN THE UNITED STATES (2020), <https://crsreports.congress.gov/product/pdf/R/R43826>. Note that while regional and state accreditors exist, it is the ABA whose approval is necessary for bar admission in most states and access to federal student aid. *See, e.g.*, American Bar Association, *Accreditation, LAW SCHOOL ACCREDITATION*, https://www.americanbar.org/groups/legal_education/accreditation/ (last visited Nov 1, 2023); College Accreditation in the United States -- TOC, (2023), <https://www2.ed.gov/admins/finaid/accred/index.html> (last visited Nov 1, 2023).

standards cover nearly every aspect of the legal education life cycle, including curriculum, faculty status and rank, and academic freedom²⁶.

Institutional policies explain who may serve as instructors in standalone courses,²⁷ and the required qualifications for teaching. Credit-bearing courses likely must clear an appointments, academic affairs, or curriculum committee, and possibly a vote by the entire faculty. The terminal degree of a juris doctorate (“J.D.”) from an ABA-approved law school or a master’s in law (“LL. M.”) from an ABA-approved law school accompanying a foreign law degree is often a threshold requirement. Librarians who want to create their own standalone courses might need to explore opportunities to have adjunct or lecturer titles when teaching and become familiar with general academic rules and policies.

Long considered a core legal skill by employers,²⁸ legal research is one of the learning outcomes required by the ABA standards.²⁹ At many law schools, librarians teach a component of legal research and writing (LRW) or lawyering class, rather than their own credit-bearing course.³⁰ At such law schools, librarians are doing so without faculty

²⁶ See e.g., Ellen M. Babbitt, Ann H. Franke & Barbara A. Lee, *Shared Governance: New Pressure Points in the Faculty/Institutional Relationship*, 41 J.C. & U.L. 93 (2015); Judith Areen, *Accreditation Reconsidered*, 96 IOWA L. REV. 1471 (2010).

²⁷ ABA Standard 605 may be interpreted to assign research expertise to the law library which “shall provide the appropriate range and depth of reference, instructional, bibliographic, and other services to meet the needs of the law school’s teaching, scholarship, research, and service programs.” “Instructional services” are not defined but Interpretation 605-1 describes appropriate services as those that “enhance the research and bibliographic and information literacy skills of the students.” ABA Standards, *supra*, note 10 at Standard 605.

²⁸ Legal research will also be tested on the NextGen Bar as a foundational skill, beginning in 2026. NextGen Bar Exam, <https://nextgenbarexam.ncbex.org> (last visited March 25, 2014).

²⁹ ABA Standard 302(b) requires that learning outcomes include legal research, but the standards do not require a standalone course. ABA Standards, *supra* note 10 at Standard 302; See, e.g., Dajiang Nie, *Publishing Functioning JD Institutional Learning Outcomes on Legal Research: Why and How?* 42 LEGAL REF. SERVICES Q. 89 (2023); Scott Uhl, *Using Active Learning Techniques to Implement PSLRC Learning Outcomes in Legal Research Class Exercises*, 115 LAW LIBR. J. 349 (2023).

³⁰ See generally, Caroline L. Osborne, *The State of Legal Research Education: A Survey of First-Year Legal Research Programs, or Why Johnny and Jane Cannot Research*, 108 LAW LIBR. J. 403 (2016); Caroline L. Osborne & Stephanie C. Miller, *Curricular Changes in Legal Research Instruction: An Empirical Study*, 37 LEGAL REF. SERVICES Q. 97

status. Librarians may also teach standalone courses³¹ or co-curricular programs³² on legal research and information literacy. For those interested in teaching, the opportunities are advantageous for development, but teaching also brings additional responsibility that may be in tension with job responsibilities as a librarian. Preparing and designing a course or lecture requires a significant investment in time.

4. Reading Job Ads

How can you determine the status, rank, academic freedom, and shared governance rights and responsibilities of a position? Ask the following questions:

1. Are you permitted to (and/or expected to) attend faculty meetings?
 - a. Are you permitted to vote in faculty meetings?
 - b. Are you permitted to vote on faculty appointments (hiring)? Promotion and tenure of faculty? Curriculum changes (e.g., new course approvals or grading policies)?
2. Are you permitted to (and/or expected to) serve on law school committees?
 - a. Are you permitted to vote on committee decisions?
 - b. Are you permitted to (and/or expected to) chair a committee?
3. Are you required to write to maintain and/or seek promotion in rank?
 - a. Are you eligible for course relief and/or incentive funding?
 - b. Are you eligible for a sabbatical or research leave?

(2018); Genevieve B. Tung, *Collaboration between Legal Writing Faculty and Law Librarians: Two Surveys*, 23 LEGAL WRITING: J. LEGAL WRITING INST. 215 (2019).

³¹ ABA Standard 403 requires full-time faculty to teach “substantially all” of the 1L coursework and half of subsequent years’ coursework. It also requires law schools to ensure “effective teaching” by all instructors. The ABA does not require a standalone legal research class, but the standards imply that some faculty in the institution will have the expertise to teach it. ABA, 2023-2024 STANDARDS AND RULES OF PROCEDURE FOR APPROVAL OF LAW SCHOOLS https://www.americanbar.org/groups/legal_education/resources/standards/ last visited March 25, 2024.

³² See e.g., Nie, *supra*, note 27; Uhl, *supra*, note 27.

- c. Are you invited to participate in writing workshops?
4. Is teaching part of your job description?
- a. Are you expected to teach a credit-bearing course? How many credits?
 - b. Are you expected to teach co-curricular programs?
 - c. Are you evaluated on your teaching for promotion in rank?

Answers to these questions should help you evaluate the position with a greater understanding of the components of status, rank, and responsibilities.

6. Implications for Education, Experience, and Skills

While many positions focus only on library-related duties and responsibilities, some include scholarship, service, and teaching requirements. These differences are significant for those who wish to leave their institutions for a new position and find their curricula vitae do not reflect the necessary experience and qualifications.

While the educational background required for all the permutations of status in library positions is unpredictable, general trends can be observed. Law librarians in most law schools are the experts in legal research,³³ information literacy, and “soft” computing skills like legal technology.³⁴ While most positions require a master's in library science or equivalent (MLS, MLIS, MIS, etc.), this requirement is not universal. Typically, positions that include teaching credit-bearing courses in the law school require a JD, though some institutions allow those with a non-U.S. law degree plus a U.S. LLM degree.

³³ Over the past decade, scholars have recognized law faculty cannot or do not maintain expertise in the rapidly evolving area of legal research. *See, e.g.*, Simon Canick, *Infusing Technology Skills into the Law School Curriculum*, 42 CAP. UNIV. L.R. 663 (2014), Tenielle Fordyce-Ruff, *Research Across the Curriculum: Using Cognitive Science to Achieve the Call for Better Legal Research Instruction*, 125 DICKINSON L.R. 1 (2020).

³⁴ Due to the rapidly evolving use of technology in legal research, some librarians may benefit from additional degrees or certificates in harder computing skills. These areas require an ongoing commitment to professional development. *See*, Osborne and Miller, *supra* note 31.

Part III: The Scope of Tenure and Tenure-Like³⁵ Statutes for Librarians

Scholars have explored tenure and security of position, addressing values of academic freedom, scholarly productivity, economic security, and other effects on the teaching of legal research. However, these protections should be considered as they relate to the job or duties associated with tenure or security of employment.³⁶ For example, tenure may protect librarians in their capacity as an instructor, but not in their capacity as a librarian. The benefits of tenure as a librarian must be examined alongside the limitations.

Librarians benefit economically from tenure, because of job security³⁷ and the potential for a higher salary. ³⁸ Additionally, tenure confers full participation in shared faculty governance, “expands librarian roles . . . and raises the stature of librarians in the eyes of the teaching faculty.”³⁹

Librarians possessing tenure and enjoy the protection of academic freedom in their work as librarians, including research, reference, teaching, and collection development.⁴⁰

³⁵ See Carol A. Parker, *The Need for Faculty Status and Uniform Tenure Requirements for Law Librarians*, 103 LAW LIBR. J. 7, 15 (2011).

³⁶ The majority of such scholarship addresses tenure and faculty status for library directors, and the requirements of the ABA’s standard 603(d) regarding tenure and security of position. See generally, Stouffer, *supra* note 1; Simons, *supra*, note 1. Current trends show that fewer law library directors have faculty rank, and more are hired on contract. See, e.g., Adelman, *supra* note 1, at 117.

³⁷ See Parker, *supra* note 35 at 15, citing Donovan (challenging the argument that economic security is justification for librarians seeking tenure).

³⁸ In the 1970s and 1980s, there was evidence that faculty status led to higher salaries for librarians. By 2011, the evidence was more mixed. *Id.* See also Parker, *supra* note 35 at 12 (noting that in her discussions with library directors, anecdotal evidence indicated that “tenure systems can actually depress librarian compensation, leading to lock-step systems that allow for little or no merit increases, leading to trading job security for market-rate salaries.”). In a broader faculty context, there is some thought that tenure may be an economic net-negative for at least some professors. Mark L. Adams, *The Quest for Tenure: Job Security and Academic Freedom*, 56 CATH. U.L. REV. 67, 70 (2006).

³⁹ Parker, *supra* note 35 (noting, Parker’s work demonstrating the value to the law school when non-directors have status, including a recognition of the central role of legal research instruction in law school).

⁴⁰ As Donovan and Shelton note, librarians may face challenges such as faculty objecting to collection development decisions, or from alumni challenging book displays. James M. Donovan and Kevin B. Shelton, *Tenure and the Law Library Director*, 61 J. LEGAL EDUC. 406, 411 (2012).

Librarians with tenure in position and tenured as law faculty have retreat rights further protecting their speech, scholarship, and teaching.⁴¹

The requirements of tenure generally include scholarship. Institutions may value scholarship partly because some law school faculty rankings include clinical professors, legal writing professors, and librarians.⁴² Conducting research and producing scholarship may be of interest or value to the librarian or the institution, regardless of the link to job security.⁴³ Balancing the numerous job requirements of a librarian position alongside scholarship can be challenging, especially where scholarship is not included in the job or position requirements.

The committee does not advocate a particular status in this white paper; instead, we seek to inform and educate to help provide the basis for librarians to make informed career choices. It is essential to acknowledge that not every position comes with a choice. An institution's current or past practice may limit a candidate's ability and power to negotiate. A careful read of a well-crafted job advertisement is the first point of knowledge for status, rank, and obligations. Accepting a position is always a balance of choices. After balancing among many options, one may ultimately accept a position with different rights, responsibilities, and status than hoped.

⁴¹ See generally, Sylvia Goodman, *Why U. Michigan and Cal State Are Changing Their Presidents' Contracts*, CHRONICLE OF HIGHER ED. (July 15, 2022) (discussing briefly the concept of retreat rights in which an administrator may retreat to their tenured faculty position upon leaving an administrative post). See also, John Newsom, *The Syllabus: Retreat rights or what happens to former college administrators* (updated), WINSTON-SALEM J. (August 17, 2017) (discussing retreat rights) https://journalnow.com/the-syllabus-retreat-rights-or-what-happens-to-former-college-administrators-updated/article_2c2a0733-5388-5e8a-a8d6-b89047b21592.html; UNC POLICY MANUAL AND CODE, 3001.6.2 at <https://www.northcarolina.edu/apps/policy/index.php?search=retreat>.

⁴² See Paul McLaughlin, *Raising the Impact Factor of the Library: Using the USNWR Upcoming Academic Impact Law School Rankings to Boost the Academic Standing of Law Librarians*, 39 Legal Ref. Serv. Q. 119, 130 (2020).

⁴³ Note also that tenure is a condition of employment, "providing enough economic security to make fulfillment of a faculty member's obligations to students and society a more attractive proposition. A faculty member is expected to give something, and continue to give something on an ongoing basis, in return for receiving tenure." Parker, *supra* note 35 at 15 (2011).

Librarians must read job postings carefully and investigate all advertised positions' rights and responsibilities. A position advertising faculty status (library or law) invites a conversation about the three prongs of tenure, including teaching, scholarship, and service expectations. For the teaching prong, one should ask about subjects, credit hours, and frequency of expected teaching. For scholarship, one should inquire about the frequency, form, and format of the scholarship, publication requirements, whether the general tenure guidelines apply to the scholarship, and whether there are special guidelines for librarians. For service expectations, candidates must understand whether librarians are expected to serve on library, law school, or university committees and whether service to professional organizations is expected or valued. Librarians must also understand how the three prongs are balanced. Sometimes institutions weigh one or more prongs more heavily, allowing for a lighter workload in the other prongs. Once one understands these expectations, additional issues such as professional development, research assistance, and leave to write. Answers to these questions may change whether the faculty appointment is as part of a library faculty or a law faculty.

Faculty status may be achieved with a long-term contract with security of position rather than tenure. The invites the same questions about teaching, service, and scholarship, and new ones relating to voting rights and participation in faculty governance. As previously noted, voting rights are derivative of status. As the status moves further from the traditional tenure/tenure track model, these rights may lessen. Asking questions to determine the scope of participation, especially as a librarian, is critical.

Staff generally have the least participatory rights, if any. One should ask about obligations such as committee service, required publishing or creative activity, attendance

at events, support for professional development, and protections in the form of academic freedom and security of position. Librarians who plan to advance into library administration in the future might consider independently looking for opportunities to teach or publish to build the skills and experiences required in desired positions.

In addition to understanding the rights and duties associated with a current position, librarians should also consider the skills and expertise needed for future positions. Teaching and scholarship can take years to develop, so one should begin building those skills early if they are planning to seek positions with status and rank later in their career. For example, if an intended future position requires teaching experience, one should seek opportunities to build a record supporting mastery of teaching. Such a record could be built through guest lectures, library programming, presentations, or co-teaching a course. If future positions typically require leadership, one could build a record through committee work in the library, law school, university, or broader professional organizations.

IV. AALL Resolution on Tenure and Continuing Status

As Donovan and Shelton note, librarians may face challenges such as faculty objecting to collection development decisions, or from alums challenging book displays⁴⁴ In 1987, the AALL membership passed a resolution supporting faculty status or academic status for law librarians.⁴⁵⁴⁶To this end, AALL “urges universities and law schools to recognize academic law librarians as partners in the educational enterprise and to extend

⁴⁴ James M. Donovan and Kevin B. Shelton, *Tenure and the Law Library Director*, 61 J. LEGAL EDUC. 406, 411 (2012).

⁴⁵ Proceedings of the 80th Annual Meeting of the American Association of Law Libraries Held in Chicago, Illinois, Business Sessions July 6-8, 1987, 79 LAW LIBR. J. 791, 831 (1987).

⁴⁶ Resolutions are considered as requests to the Executive Board and shall not be binding unless formally approved by the Executive Board. This resolution was not passed by the AALL Executive Board.

to them the rights and privileges which are not only commensurate with their contributions but, are necessary if they are to carry out their responsibilities.”⁴⁷

To recognize law librarians as professional academic employees, the AALL . . . calls on academic institutions to grant formal faculty or academic status to law librarians, either through their law faculty, law library faculty, University library faculty, or general university faculty.⁴⁸ Moreover, AALL recommends that librarian tenure policies should be reasonably similar to policies for other faculty members at the institution and “reflect the unique responsibilities of law librarians in the academic mission of the law school.”⁴⁹ While acknowledging that the tenure evaluation policies at academic institutions vary, AALL recognizes the need for fair and impartial standards for promotion in rank and status.⁵⁰ The 1987 membership resolution started the work that should be continued today to promote the importance of faculty or continuing status for academic librarians.

July 6th, 2023, marks thirty-six years since the passage of this resolution. During these intervening years, the popularity of faculty status and tenure has been in flux. Promoting the importance of faculty or continuing status for academic librarians must include creating model policy guidelines for performance evaluation for promotion and tenure review. To highlight the importance of faculty status and tenure for academic librarians, AALL should consider adopting promotion and [tenure guidelines](#) similar to ACRL.⁵¹

⁴⁷ *Id.*

⁴⁸ *Id.*

⁴⁹ *Id.*

⁵⁰ *Id.*

The ACRL Joint Statement on Faculty Status of College and University Librarians emphasizes the importance of academic freedom in the library. On the Relationship of Faculty Governance to Academic Freedom, <https://www.aaup.org/report/relationship-faculty-governance-academic-freedom>. Acknowledged in the concept of

Model guidelines would highlight academic librarians' contributions to their institutions' educational missions of their institutions. Such guidelines could serve to help academic librarians advocate for the adoption of faculty or continuing status at their institutions. Additionally, guidelines could help create uniformity among institutions with faculty or continuing status for academic librarians. Finally, model policy guidelines would fill an existing gap in the professional literature discussing faculty status and tenure. Scholarship related to faculty status and tenure for law librarians tends to focus on the benefits bestowed by faculty status and tenure and professional surveys of employment status.⁵² Notably absent but central to the discussion are the criteria used to evaluate performance, scholarship, and service in performance and tenure policies.⁵³

V. Conclusion

The questions of librarian status are important and made even more so by the absence of uniformity and consistency. Understanding the concepts of status and rank is critical to future career planning and building the necessary skill sets to meet professional career goals. There is no one correct career path. The reality is that paths are seldom straight, but understanding options supports informed decision-making and long-term success. The ability to plan and manage expectations only serves to increase awareness and success. Neither the Committee Members nor this paper advocates on behalf of a particular structure or status. Rather, the goal is to create informed librarians who can make informed decisions in an otherwise chaotic profession.

shared governance and stemming from status, academic freedom as a concept is fundamental to the law librarian.⁵²
Parker, *supra* note 35 at 7 - 8 (2011).

⁵² Parker, *supra* note 35 at 7 - 8 (2011).

⁵³ *Id.*