

Fredric G. Levin College of Law
Office of the Dean

Spessard L. Holland Law Center
PO Box 117620
Gainesville, FL 32611-7620
352-273-0600
www.law.ufl.edu

February 14, 2020

MEMORANDUM

TO: Voting Faculty

FROM: Laura A. Rosenbury, Dean *LAR*

RE: Faculty Meeting Agenda, Friday, February 21, 2020

I have scheduled a Faculty Meeting for Friday, February 21, 2020, in the Faculty Lounge, beginning at noon. The agenda will be as follows:

1. Approve Faculty Meeting Minutes for January 31, 2020, attached
2. Information Item: Discussion regarding Legal Research Tools
3. Information Item: Faculty Hiring Update from the Appointments Committee (Danny Sokol and Michael Wolf, co-chairs)
4. Proposal from Curriculum & Strategic Planning Committee (Jonathan Cohen, chair) and Associate Dean Charlene Luke, attached

Law Faculty Meeting Minutes

January 31, 2020 12:00 p.m.

PRESENT: Mary Jane Angelo, Gia Arney, Rachel Arnow-Richman, Sarah Bishop, Stephanie Bornstein, Yariv Brauner, Neil Buchanan, Judy Clausen, Robin Davis, Nancy Dowd (phone), Teresa Drake, Seth Endo, Ben Fernandez, Jeffrey Grater, Anastacia Greene, David Hasen, Berta Esperanza Hernandez-Truyol, Darren Hutchinson, Michelle Jacobs (phone), Joseph Jackson, Maryam Jamshidi, Joan Stearns Johnsen, Shani King, Christine Klein, Elizabeth Lear, Sabrina Little, Pedro Malavet, Gail Mathapo, Merritt McAlister, Silvia Menendez, Peter Molk, Jason Nance, Kenneth Nunn, Jane O'Connell, William Page, Laura Rosenbury, Katheryn Russell-Brown, Stacey Steinberg, Margaret Temple-Smith, Michael Wolf, Danaya Wright, Wentong Zheng
(39)

NOT PRESENT: Mary Adkins, Thomas Ankersen, Karen Burke, Dennis Calfee, Jonathan Cohen, Charles Collier, Deborah Cupples, Jeffrey Davis, Mark Fenster, Alyson Craig Flournoy, William Hamilton, Andrew Hammond, Jeffrey Harrison, Mindy Herzfeld, E. Lea Johnston, Leslie Knight, Charlene Luke, Amy Mashburn, Grayson McCouch, Jon Mills, Lars Noah, Leanne Pflaum, Teresa Reid, Robert Rhee, Elizabeth Rowe, Betsy Ruff, D. Daniel Sokol, Amy Stein, John Stinneford, Lee-ford Tritt, Henry Wihnyk, Steven Willis, Andrew Winden, Sarah Wolking, Jennifer Zedalis

Meeting called to order at 12:05 pm

1. Announcements

Dean Rosenbury thanked the community for a successful visit with Justice Thomas. *Information Item Only*

Dean Rosenbury requested volunteers and nominations for University committees. All nominations should be sent directly to Dean Rosenbury.

Welcome to Rachel Arnow-Richman.

2. Approve Faculty Meeting Minutes for January 10, 2020

Faculty considered meeting minutes from January 10, 2020. *Unanimously Approved*

3. Information Item: Presentation regarding UF Online Interests Organizer (UFOLIO) by Gary Wimsett, Jr., Assistant Vice President for Conflicts of Interest

Dean Rosenbury discussed information about various disclosure requirements pursuant to University policies and regulations and law school accreditation bylaws and standards. *Information Item Only*

Gary Wimsett (and his team) discussed disclosures regarding conflicts of interest and presented the new online disclosure platform: UFOLIO.

Discussion ensued about disclosure policies and requirements.

4. Information Item: Discussion regarding Legal Research Tools

Associate Dean O'Connell announced new law school subscription to *law.com*. *Information Item Only*

5. Information Item: Legal Skills Hiring Update from the Non-Tenure Track Appointments, Retention, and Promotions Committee (Silvia Menendez, chair)

Associate Dean Menendez announced a new search for a Lecturer/Legal Skills Professor and requested support in promoting the job posting and soliciting candidates. *Information Item Only*

6. Recommendation for Update to the Faculty Appointments Policy from Appointments Committee (Danny Sokol and Michael Wolf, co-chairs)

Appointments Committee made recommendation for update to the Faculty Appointments Policy as circulated to the faculty. *Unanimously Approved*

Discussion ensued regarding the policy.

Motion: Amend policy as set forth in the documents.

7. Recommendation for Faculty Hiring from Appointments Committee (Danny Sokol and Michael Wolf, co-chairs)

The Appointments Committee presented an opportunity for the faculty to consider the joint appointment of Clay Calvert who is already an eminent scholar chair in the College of Journalism and Communications and would retain his tenure home in the College of Journalism and Communications.

Majority of Voting Faculty Voted in Favor of Appointment

Discussion ensued regarding the reasoning for the proposal, the difference between joint and affiliate professors, review process and evaluations, voting rights, service requirements, and other implications of a joint hire.

Voting took place after the meeting by Tenured and Tenure-Track faculty members.

Meeting adjourned at 1:34 pm.

MEMORANDUM

To: Faculty

From: Curriculum & Strategic Planning Committee (Jonathan Cohen, chair)

Date: February 9, 2020

Re.: Proposals Concerning the Tax and International Tax LL.M. Degrees

The Curriculum & Strategic Planning Committee recommends to the faculty two proposals concerning the Tax and International Tax LL.M. degrees as described in Associate Dean Charlene Luke's memorandum.

Memorandum & Proposals

To: Curriculum & Strategic Planning Committee
From: Charlene Luke, Associate Dean for Tax Programs
Date: February 14, 2020
Re: Facilitation of Bar Passage for Foreign-Trained Lawyers in Graduate Tax Program; Transfer of UF Tax LL.M. Credits for Prior UF Tax Visiting Students

This memorandum suggests interrelated proposals aimed at facilitating the recruitment of highly qualified international students to UF Law's LL.M. programs and enhancing the career opportunities of international student graduates from UF Law's LL.M. programs.

First Proposal: Concentration in U.S. Law

The goal of the first proposal is to provide foreign-educated LL.M. Tax students with a clearer path for meeting the eligibility requirements of the N.Y. Bar and other state bars that allow non-J.D. students to apply. Becoming barred in the U.S. provides our international students with a valuable credential and one increasingly required of our international LL.M. students seeking to practice in the U.S.; large accounting firms (such as EY) are now frequently requiring a state bar exam for promotion. I selected the N.Y. Bar eligibility requirements as the focus for three main reasons. First, because of the stringency of the N.Y. Bar eligibility requirements, if a path is provided to the N.Y. Bar, a path will simultaneously be provided for those students wishing to take a different state bar. Second, while other states do allow international students to sit for the bar exam (Florida is not among these), prospective and current international students tend to be most interested in the N.Y. Bar. Third, New York is a Uniform Bar Exam state, which will allow for the transfer of UBE scores to other states.

The proposal does not change the requirements of the LL.M. Tax Degrees but rather is designed to enhance, and avoid dilution of, the LL.M. Tax Degrees.

Background: N.Y. Bar Eligibility

The following highlights the N.Y. Bar eligibility requirements that I see as critical to structuring degree requirements and curriculum for students in the LL.M. Tax Degrees. The complete rules are available at <https://www.nycourts.gov/ctapps/520rules10.htm#B18>.

A minimum of 24 credits is required. Courses "must include: (i) at least two semester hours of credit in professional responsibility, (ii) at least two credits in a legal research, writing and analysis course (which may NOT be satisfied by a research and writing requirement in a substantive course), (iii) at least two-credits in a course on American legal studies, the American legal system or a similar course designed to introduce students to U.S. law, and (iv) at least six credits in subjects tested on the New York bar examination."¹ Courses may be in clinical work ("so long as the clinic course has a classroom component,

¹ All of the quotes in this paragraph are from *Foreign Legal Education*, N.Y. BAR EXAM, <https://www.nybarexam.org/Foreign/ForeignLegalEducation.htm>.

[and] the clinical work is performed under the direct supervision of a member of the law school faculty”), with “a maximum of six credits in other courses related to legal training.” The required courses and credits may not be fulfilled through “any type of bar review or preparation course, ‘independent study’, directed study, research papers or projects toward the 24 semester hours of credit required to qualify for the bar exam.” The required courses and credits may not be online or distance courses.

N.Y. Bar applicants must also complete a pro bono service requirement and a skills competency and professional values requirement. Fifty hours of pro bono service are required, and they are “independent of any hours credited towards the skills competency and professional values requirement.”² Five options are available for meeting the skills competency and professional values requirement, but the two most practical for foreign-educated LL.M. students are (1) completion of a six-month, full-time apprenticeship; this may be paid or unpaid and may follow the LL.M. degree; or (2) having practiced in their home country full-time for at least one year or half-time for at least two years.

Background: Tax LL.M. Degrees

UF Law offers two LL.M. Tax Degrees: (1) LL.M. in Taxation and (2) LL.M. in International Taxation (together, the LL.M. Tax Degrees). Students are only admitted to the degree if they have either a U.S. J.D. or have a first law degree from another country. Foreign-educated students apply to both LL.M. Tax Degrees, but most are in the International Tax LL.M. degree. The LL.M. Tax degrees each require 26 credits, 22 credits of which must be in graded, tax LL.M. courses. The remaining 4 credits may be in courses approved by the academic director of the LL.M. Tax Degrees (currently myself). Foreign-educated Students in the LL.M. Tax Degrees already often use these 4 flexible credits to take bar-required courses, such as J.D. Professional Responsibility or U.S. Law LL.M. Introduction to the Legal System in the US (for U.S. Law LL.M. Students). Students in both LL.M. Tax Degrees are required to complete a substantial research and writing project in connection with a section of the Tax Research Seminar. The required GPA at graduation is 3.0.

Currently, foreign-educated students admitted to the LL.M. Tax Degrees do not have a formal path for completing bar-required courses but several already stay an additional semester in order to complete both tax degree requirements and bar-required courses. Some who have attempted to stay an additional semester to complete bar-required classes have encountered visa difficulties because they are taking these classes outside of their formal program of study. We recommend providing a formal, 12-credit concentration in U.S. Law to students admitted to the LL.M. Tax Degrees. The concentration would be open only to students who do not have a U.S. J.D. This concentration, together with the 4 flexible credits already available in the LL.M. Tax Degrees, would provide the flexibility students will need to complete bar-required courses.

Students in the Tax LL.M. Degrees who elect this concentration would generally need to remain for three semesters to complete tax degree requirements and the concentration credits. Students would be able to utilize the summer to work toward completing the pro bono N.Y. Bar requirement or begin the

² All quotes in this paragraph are from <http://www.nycourts.gov/ctapps/news/skills.pdf>, which is an FAQ regarding the skills competency and professional values requirement.

apprenticeship option for the N.Y. Bar’s skills competency requirement. Students would be able to apply for a summer visa through the Curricular Practical Training (CPT) program.³

Proposal 1 Suggested Language

Students who are admitted to the LL.M. in Taxation or the LL.M. in International Taxation and who do not have a U.S. J.D. Degree shall have the option to obtain a 12-credit concentration in U.S. Law through completing non-tax J.D. or U.S. Law LL.M. courses.

Second Proposal: Credit Transfer for Prior UF Law Tax Program Visiting Students

Under the current degree requirements for the LL.M. Tax Degrees, no transferred credits are allowed, even if those credits are LL.M. tax credits taken at UF Law. Although UF Law has agreements with international universities to allow for visiting students to the UF Law’s Graduate Tax Program, the limitation on transferability of credits may make such visits less desirable. This currently affects a fairly small number of students. During my time as Associate Dean for Tax Programs, I have received 2 inquiries from prior visiting students to the Graduate Tax Program regarding transferability of credits. Although it is a relatively small number of students, I recommend making this change because when students do visit and subsequently apply to one of the LL.M. Tax Degrees, they are dismayed to learn there is not a mechanism for counting the credits they have already taken toward the LL.M. Tax Degrees even though the courses could be identical (for example, LL.M. Corporate Taxation I).

I propose that students (1) who do not have a U.S. J.D. degree, (2) who are admitted to one of the LL.M. Tax Degrees through the regular LL.M. Tax Degrees admissions process, and (3) who have recently completed a residential visit to UF Law be permitted to count, up to a maximum of 13 credits, successfully completed UF Law tax LL.M. courses toward one of UF Law’s LL.M. Tax Degrees. Successful completion is defined as obtaining a B or higher in a graded, UF Law tax LL.M. course.

The LL.M. Tax Degrees generally must be completed within 5 years of initial matriculation; one-year extensions for good cause (e.g., significant medical issues) are granted. I recommend a parallel rule apply. Thus, I recommend that credits completed during a visit must be taken into account in determining whether the student has completed the degree within the required time period. For example, if a student visited the UF Graduate Tax Program starting in August 2016, in order to count credits from that visit, the student would be required to complete the degree by August of 2021 (assuming no good cause for an extension is present).

It should be noted that the N.Y. Bar requires that the LL.M. program “shall be completed within 24 months of matriculation.”⁴ In addition, if the student obtained credit toward a degree at their home institution for their visit, the N.Y. State Board of Law Examiners has specified that such credits may not count toward the required number of credits.⁵ As a result, students will need to be advised that

³ UF’s International Center provides information about this program at <https://internationalcenter.ufl.edu/international-students-scholars/current-international-students/employment/curricular-practical>.

⁴ Rule § 520(6)(b)(3), <https://www.nycourts.gov/ctapps/520rules10.htm#B18>.

⁵ “An applicant who completes an exchange program at a U.S. law school may not count the credits earned in the exchange program toward both the foreign law degree and the LL.M. degree. If an applicant who attended a U.S.

counting credits from a prior visit will likely negatively impact their eligibility to meet N.Y. Bar requirements.

Proposal 2 Suggested Language

Students (1) who do not have a U.S. J.D. degree, (2) who are admitted to one of the LL.M. Tax Degrees through the regular LL.M. Tax Degrees admissions process, and (3) who have recently completed a residential visit to UF Law shall be permitted to count, up to a maximum of 13 credits, successfully completed UF Law tax LL.M. courses toward one of UF Law's LL.M. Tax Degrees. Successful completion is defined as obtaining a B or higher in a graded, UF Law tax LL.M. course. This proposal does not change the general requirement that LL.M. Tax Degrees be completed within 5 years from when students first enroll in tax LL.M. courses; thus, in order for credits taken during a visit to count toward one of the LL.M. Tax Degrees, the credits must have been successfully completed within 5 years of the anticipated graduation date for the LL.M. Tax Degree. The one-year extension to the 5-year requirement for good cause available to any student working toward one of the LL.M. Tax Degrees will also apply.

law school on exchange subsequently returns to the U.S. to complete an LL.M. degree, **the applicant may not count the credits awarded during the prior exchange program toward the LL.M. degree.** The applicant must complete a thorough and continuous program of study for the LL.M. degree that consists of a minimum of 24 credit hours and no fewer than two semesters of at least 13 calendar weeks each." *Foreign Legal Education*, N.Y. BAR EXAM, <https://www.nybarexam.org/Foreign/ForeignLegalEducation.htm> (emphasis added).

This appears to be an interpretation of Rule § 520(6)(b)(3), which does not directly state the bolded language in the prior paragraph. That Rule provides: "(i) the program shall consist of a minimum of 24 credit hours (or the equivalent thereof, if the law school is on an academic schedule other than a conventional semester system) which, except as otherwise permitted herein, shall be in classroom courses at the law school in substantive and procedural law and professional skills; . . . (iii) the program shall include a period of instruction consisting of no fewer than two semesters of at least 13 calendar weeks each, or the equivalent thereof, exclusive of reading periods, examinations and breaks, and shall not be completed exclusively during summer semesters, but a maximum of four credit hours may be earned in courses completed during summer semesters; . . . (v) all coursework for the program shall be completed at the campus of an American Bar Association approved law school in the United States, except as otherwise expressly permitted by subdivision (b)(3)(vii)."