

MEMORANDUM 02-40

September 23, 2002

To:	Deans of Member and Fee-Paid Schools
From:	Carl C. Monk
Subject:	Interpretation of Bylaw 6-5(d) Regarding Use of Adjunct and Part-time Faculty

Bylaw 6-5(d) provides that “[i]n each division of its program, a member school’s full-time faculty shall offer at least two-thirds of the instruction leading to the J.D. degree.” The interpretation of this Bylaw has been fraught with difficulty. Two separate AALS Memoranda, 95-30 and 98-9, have attempted clarification with little success. Single-division programs were required to show compliance by comparing the number of credit hours taught by full-time and adjunct faculty members. Multiple-division schools were required to show overall credit hour compliance (across all divisions), but were permitted to show compliance within each division through the use of contact-hour data (credit hours multiplied by course enrollment). However, the reasons for this distinction between single and multiple-division programs was never clear.

In May 2002 the Executive Committee decided to eliminate the confusion surrounding Bylaw 6-5(d) by applying the same standards to both single and multiple-division programs. Henceforth, both single-division and multiple-division schools will be permitted to show compliance with Bylaw 6-5(d) through the use of credit or contact-hour data. Furthermore, although multiple-division schools will still need to show compliance with Bylaw 6-5(d) for each division separately, they will no longer be required to show aggregate school-wide compliance.

Since adjunct faculty members tend to teach classes with smaller enrollments that are worth fewer credit hours, contact-hour data will generally show lower reliance on adjunct faculty than is shown by credit-hour data. Thus, by making contact-hour data available to single-division schools the Executive Committee has significantly liberalized its interpretation of Bylaw 6-5(d). Elimination of the requirement that multiple-division schools show aggregate school-wide compliance in addition to division-specific compliance will reduce the burden of data reporting for those schools.

Although this memorandum represents a significant relaxation of the interpretation of Bylaw 6-5(d) set forth in AALS Memorandum 98-9, there are portions of Memorandum 98-9 that are still pertinent, particularly concerning the rationale for limiting use of adjunct faculty, definition of terms (e.g., “credit hours,” “contact hours” and “full-time faculty”), alternate methods of showing compliance with Bylaw 6-5(d), and the importance of adequate supervision of adjuncts and integration of adjuncts into the educational life of the law school. Those relevant portions of Memorandum 98-9 are reproduced in the attached appendix for your convenience.

Enclosure: Appendix

cc: Membership Review Committee

APPENDIX

Pertinent Excerpts from AALS Memorandum 98-9

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II. Rationale for Limiting Use of Adjunct Faculty

The “two-thirds” quantitative requirement of Bylaw 6-5(d) serves the Association’s fundamental tenet that a member school’s teaching and institutional policy should be provided by a full-time faculty which has been carefully selected and which devotes its primary time and energy to the educational mission of the school. The “two-thirds” requirement is a modest standard which reflects the foregoing policy but also leaves sufficient flexibility for schools to take advantage of the skills and talents offered by part-time and adjunct faculty.

The full-time faculty must take responsibility for the law school’s academic program and ensure that all courses contribute to the school’s educational mission. Adjunct faculty are understandably mostly involved with their primary occupations and routinely experience more turnover than full-time faculty. Adjunct faculty are also less likely than full-time faculty to be readily available to serve important roles as mentors and counselors. Finally, the rule guards against differential treatment of evening students who pay regular tuition but do not receive instruction from the full-time faculty as day program students do.

III. Means of Measuring Quantitative Compliance with Bylaw 6-5(d)

* * * In applying the foregoing requirements, the following definitions are relevant.

- (1) The number of “academic credit hours” in a semester is defined as the total course credits for all courses offered in that semester.
- (2) For purposes of determining whether full-time faculty teach two-thirds of the academic credit hours, each section is a separate course, except that, if a full-time faculty member teaches a subject by supervising a number of sections taught by adjunct faculty, the sections taught by adjunct faculty are not individually counted and the full-time faculty member is considered to be teaching one course.
- (3) The number of student contact hours is defined as the number of academic credit hours multiplied by the number of students enrolled in each course.
- (4) Consistent with AALS Bylaw 6-5(f), a “full-time” faculty member is one who devotes substantially his or her entire time to the responsibilities of teacher, scholar, and educator. In determining compliance with Bylaw 6-5(d), a school may count other persons as full-time faculty who do not qualify technically but who devote essentially full-time to the educational enterprise. For example, full-time administrators or librarians, emeriti faculty who are present at the law school essentially full-time while teaching part-time, and faculty with joint appointments who teach in the law school may be counted as full-time faculty.
- (5) A course scheduled at a time which falls at the margin of both day and evening divisions may be classified based on the status of the majority of students enrolled in the course. For example, a skills course scheduled at the latter part of the day or early in the evening would be considered a day-division course if a majority of the enrolled students were day-division students.

B. Compliance With the Bylaw

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(1) The most direct means of demonstrating compliance with Bylaw 6-5(d) would be through review of individual student transcripts in each division, to ensure that every student received two-thirds of instruction from full-time faculty. Although the Executive Committee has not adopted this method as a primary means of proving compliance because of its administrative burden, a member school may elect to prove compliance through review of individual student records.

(2) If a member school is persuaded that its statistics under Bylaw 6-5(d) are distorted by cross-enrollment of day students in the evening division or similar circumstances, it should submit any supporting data for adjustment of the calculations. Such data might include a schedule of classes annotated to reflect the status of the instructor as part-time or full-time and the proportion of day and evening student enrollment.

(3) A member school may choose to meet the requirements of Bylaw 6-5(d) as to each division by instituting an academic regulation limiting the number of credit hours that students may complete with adjunct faculty. Under such an approach, the member school must demonstrate both its capacity to enforce such an academic regulation and satisfaction of the requirement of Bylaw 6-9 that all students, especially those who are able to attend only in an evening division, have a reasonable opportunity to enroll in courses in a wide variety of fields.

(4) A member school may also elect not to use any of the foregoing methods of proving compliance within a division if a school is able to furnish other specific data or calculations that provide the same degree of assurance as that provided by the above methods. The other data or calculations must establish that students, especially those who are able to attend only in an evening division, receive two-thirds of their instruction from full-time faculty. If a member school advances an alternative method, it must be specific in explaining the alternative method and the reasons for asserting that the method is equally reliable to those specifically approved by the Executive Committee.

C. Summer Sessions

The Executive Committee will excuse noncompliance with the requirement that the full-time faculty offer two-thirds of instruction for summer school sessions, provided that the number of credits offered do not constitute a substantial portion of the total credit hours offered by the law school in an academic year and the school generally complies with Bylaw 6-5(d) for other semesters.

D. Innovative Use of Adjuncts

While Bylaw 6-5(d) reflects the view that effective teaching is a core concern of the Association, the Executive Committee does not want to discourage innovative use of adjunct faculty that is consistent with highly competent teaching. Although member schools frequently suggest that the adjunct faculty teach enriching or specialized courses, it should be noted that the "student contact hour" measure is designed to address just that situation in which the full-time faculty teach large enrollment core courses and part-time faculty teach smaller enrollment specialized courses.

IV. Supervision and Integration of Adjuncts

The Executive Committee interprets Bylaw 6-5(d) to require that member schools institute qualitative controls for adjunct faculty in addition to the quantitative standards of Bylaw 6-5(d). A member school must demonstrate that it adequately supervises the adjunct faculty and takes appropriate steps to integrate the adjunct faculty into the educational life of the law school. More specific suggestions are detailed below.

A. The school shall acquaint adjunct faculty with the mission and goals of the school's educational

program, the place of the adjunct in the overall educational program, and the academic policies of the school.

B. A member school's policies and practices should provide for regular supervision of the adjunct faculty, including routine evaluation of teaching and grading. The school should make its program of teacher development reasonably available to the adjunct faculty.

C. A member school should take steps to ensure that adjunct faculty are reasonably available for consultation with students. This requirement would include making office space available for student-faculty consultation and impressing upon adjunct faculty the need to hold regular office hours for students.

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