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When Tenure Standards Are Wrong

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MICRO-SYMPOSIUM:
ERIC GOLDMAN'S "WRITING TENURE REVIEW LETTERS:
MY TOP TEN SUGGESTIONS"

WHEN TENURE STANDARDS ARE WRONG

James Grimmelmann

ERIC GOLDMAN SAYS that outside reviewers should apply the tenure standards of the school asking for a review. It sounds tautological: what other standards could possibly apply? But Goldman's point is a little subtler. To paraphrase *Erie*, there is no general common "law" of tenure. One's job as a reviewer is not to apply some abstract standard of scholarly quality and quantity, but rather the specific standards a law school's senior faculty hold themselves to – and have told their junior colleagues to expect to be held to.

All of this is right, most of the time. But sometimes a school's tenure standards are *wrong*, and when they are, reviewers should say so. The most common problem I've seen is that tenure standards simply fail to consider whether scholarship is broadly accessible. The ideal of "publication" isn't an empty formal threshold: it entails a meaningful effort to make scholarship

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public. A professor whose books and articles can be freely downloaded is doing a better service to the academy, the profession, and the public than one who writes \$250 books and doesn't put her articles online. (Don't even get me started on the cost of casebooks from the major publishers.)

It would be unfair to candidates to cite these concerns against them when their own schools' tenure standards don't. But silence is not the only alternative. *Please don't hold this against Professor X, I begin. But I think you as a faculty should discuss your tenure standards with respect to Y, and consider the standards you will apply in the future.*

The tenure process requires judging scholarship, but it's not just about judging scholarship. It's also about the formation of scholars: helping faculty find their voices and their places in their institutions and our professional community. And it's about articulating for ourselves our vision of who we are and what we do as professors – and recommitting to that shared purpose with every tenure letter and every tenure vote. Letter writers can help faculties better understand themselves, not just their new colleagues.

